

particularly watched. Besides according to the findings of the Court the conspiracy was formed at Bombay and many other places. So the city of Bombay Police had jurisdiction to investigate although the explosion having been at Delhi the police of that place had under taken the investigation of the bomb case. There may be some justification for not disclosing the name of Jain who had requested Mr. Morarji Desai not to do so because he lived in a dangerous locality and if his name was given out he was likely to be murdered. But it would, in the opinion of the Commission, be difficult to blame Mr. Desai for choosing Mr. Nagarvala rather than Mr. Kamte to take over the investigation or inquiry. At this distance of time after knowing all the facts and the identity of the conspirators it may be said that Mr. Kamte would perhaps have been better; but could the same thing have been said on January, 21, 1948 when the two names were of the Seth, Karkare of Ahmednagar, and Vir Savarkar; and which of them was more important? That is where the choice lay.

25.14 Besides, the matter was one of detection of the crime and criminals. In the ordinary course one would entrust it to the detective branch which the Bombay Special Branch exclusively was and the Inspector General of Bombay was not. The choice was in the sole discretion of Mr. Morarji Desai and there is no ground to hold that the discretion was improperly or wrongly used.

25.15 When asked whether Mr. Morarji Desai was right in passing on the information given to him by Professor Jain to the Deputy Commissioner of Police, Mr. Munshi, witness No. 82, replied "that is the only way that a minister can act. He is not expected to do the investigation himself" Mr. Munshi gave an instance of a similar case when he was the Governor of U.P. Information was received about a conspiracy at Jhansi to murder Prime Minister Jawaharlal Nehru. He passed on the information to the Home Minister, who asked the Inspector General of Police to make enquiries, which showed that the information was without substance.

"No sinister motive can be attached to the Minister. That was the only way in which a Minister can act. He cannot be expected to go himself and carry on the investigation. The Governor or the Minister cannot order the arrest or prosecution without proper investigation of a particular individual merely because he has some information about him. If he did so it would only lead to a total collapse of law and order and constitutional government".

25.16 In support of his arguments that entrusting the case to Nagarvala was a mistake, Mr. Kotwal has relied upon the provisions of the City of Bombay Police Act, 1902 (No. IV of 1902) which will herein be referred to as the "Bombay City Act". In order to support his contention Mr. Kotwal referred to the various sections of the Bombay City Act and bmitted that under that Act Nagarvala could not have taken any action either to get intelligence regarding the crime or to prevent the commission of the crime because of the limited nature of the powers given by the Bombay City Act.

25.17 Section 1(2) gives the local extent of the Act i.e. it extends to the Greater Bombay only except in certain sections mentioned in

sub-section (2). Section 4 of the Act relates to the constitution of the police force which shows that the police force for Greater Bombay was a distinct entity different from that of the rest of the Province of Bombay and further for all intents and purposes it was subject to the control of the Commissioner of Police of Bombay and not the Inspector General.

25.18 Reference was then made to sections 32 and 33 of the Bombay City Act. These sections are in Chapter IV dealing with Executive Powers and Duties of Police. Section 30 of the Bombay City Act corresponds to Section 151 of the Cr. P.C. It provides—

"A Police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented".

25.19 Section 32 gives the duties of every police officer and the important part is clause (b) of sub-section (1) which runs as follows—

"(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offence or design to commit such offences, and to lay such information and to take such others steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable, and with in his view of non-cognizable, offences,"

25.20 Mr. Kotwal also referred to other clauses of this section to show that on a proper interpretation of these clauses, clause (b) also must necessarily refer to the duties of the police officer within his jurisdiction. He submitted that no doubt clause (b) imposes on a police officer the duty of prevention of crime and to take steps to obtain intelligence but that must refer to within the territorial jurisdiction of the police officer because clauses (c), (g) and (1)(1) refer to matters which necessarily mean within the jurisdiction e.g. to prevent nuisance; afford protection; to prevent any loss or damage by fire. The whole Section, he submitted, refers to duties to be performed within the Jurisdiction, and he emphasised this because according to him Nagarvala had no statutory duty which he had failed to perform.

25.21 Section 33 corresponds to Section 54 of the Cr. P.C. He then quoted Sections 57, 59, and 60 of the Bombay City Act which correspond to Sections 154, 156 and 157 of the Cr. P.C. with this difference that in the Sections of the Bombay City Act there is a limitation in that the information of the commission of an offence has to be "within his section". The argument raised is that if in order to act within sections 57, 59 and 60 the offence must be within the section i.e. arrest on First Information Report recorded is limited to offences within the section of the police officer, then the powers under sections 32 and 33 cannot be wider i.e. no duty is placed on a police officer to get intelligence or to prevent an offence to be committed outside his Jurisdiction.

25.22 In this connection he also referred to sections 149 and 150 of the Cr. P.C. which are in Chapter XIII dealing with Preventive Action of the Police. Section 149 deals with power of police to prevent cognizable offences and Section 150 with the duty of the Police Officer to communicate information of a design to commit any cognizable offence to any other police officer whose duty it is to prevent or take cognizance of the commission of any such offence. Section 151 is the power to arrest to prevent the commission of such offences, which corresponds to section 30 of the Bombay City Act.

25.23 Mr. Kotwal then drew the attention of the Commission to Sections 154, 156 and 157 and submitted that in Section 154 there is no limitation like there is in section 57 of the Bombay City Act in that it does not use the words "within the section" or "within the jurisdiction". From all this the contention raised was that if Mr. Nagarvala was told that the offence was to be committed in Bombay City, under section 33 it would be his duty to get intelligence or to make arrests in Bombay. But if the offence was to be committed without the city of Bombay, then it was no part of his statutory duty either to get intelligence or to prevent the commission of the offence.

25.24 Mr. Kotwal also relied on the reply to question No. 8 of the questionnaire issued to the Government of India, regarding the responsibility of the Delhi police. The question and answer are as follows—

"Q. If it is not within the province of the Ministry of Home Affairs to give any orders in regard to apprehension of persons accused or suspected, please state whose responsibility it was at the time to see that persons named by Madan Lal Pahwa were apprehended or prevented from coming to Delhi if they were not already there?

A. It would be the responsibility of the Delhi Police to ensure that the persons named were apprehended or prevented from coming to Delhi, if they were not already there. To the extent such action related to persons residing outside the jurisdiction of the Delhi Police it would have been also the responsibility of the other police authorities concerned to extend necessary assistance and cooperation to the Delhi Police."

25.25 The submission thus is that the Government of India have themselves accepted the responsibility of the Delhi Police to prevent the commission of the offence in Delhi or to apprehend the offenders and if they were residing outside Delhi, to seek the assistance of police there. This may be so. But this reply does not wholly support Mr. Kotwal's contention because the Government of India has not said that if the police outside Delhi had information of the culprits being within their jurisdiction, they could just stay their hands and do nothing. And the Government was not dealing with information given by Professor Jain.

25.26 The Commission is unable to accept the contention of Mr. Kotwal so broadly stated. If the contention is correct, then it would lead to some extraordinary results. If information was received by an officer of the City of Bombay police that certain persons within his

jurisdiction had armed themselves to go and murder the members of the Government of another Province or of the Centre, then the Bombay city police officer need and even can take no notice of the information given and may twiddle his thumbs and remain totally indifferent and even inactive and allow persons in his jurisdiction to make preparations, to collect arms and to allow them to proceed from Bombay to wherever they are going to commit the offence. Taken to its logical conclusion, if there was an espionage ring having its base in Bombay but operating outside the city of Bombay, it would be free to operate outside Bombay, it could steal any secret and confidential information that it wanted, it could commit acts of sabotage, it could do the most dangerous, the most treacherous acts but as long as its operative field was outside the City of Bombay, the Bombay City Police would be helpless even when after doing all those acts the spies returned to Bombay and were hiding there to the knowledge of the Bombay Police and even when attempting to cross the seas or the skies.

25.27 Still further all offences falling within Chapter VI of the Indian Penal Code—Of offences against the State—could with impunity be committed outside the City of Bombay by persons residing within that jurisdiction without any fear of the Bombay City Police as long as the operative part was without the City. In other words, they could conspire within the City and operate without the City and the Bombay Police would be helpless lookers on. That goes counter to the provisions of the Criminal Procedure Code under which a case of a conspiracy to murder in one district and attempt to murder in another district can be enquired into and tried in either of the two districts. The Privy Council has held that conspiracy and overt acts committed in pursuance of the conspiracy are parts of the same transaction and it is sufficient if conspiracy is to be found in the accusation [*Babulal Chokhani v. King* 65 I.A. 158; A.I.R. (1938) P.C. 130]. The Supreme Court has held, overruling the Calcutta view, that a Court having jurisdiction to try the offence of conspiracy has also jurisdiction to try the offence constituted by the overt acts which are committed in pursuance of the conspiracy beyond its jurisdiction and vice versa. Consequently if the conspiracy was formed, amongst other places, at Bombay with the overt act at Delhi then courts of either of the two places could have enquired into and tried the offences. [*Purushottamdas v. West Bengal* A.I.R. (1961) S.C. 1589; *L.N. Mukerjee v. Madras* A.I.R. (1961) S.C. 1601]. *A fortiori* the police at either places could have investigated the offences—the Delhi Police under Chapter XIV of Cr. P.C. and the Bombay Police under Chapter V of the Bombay City Act. The technical objection raised by Mr. Kotwal must therefore be overruled.

25.28 One of the matters debated before the Commission was as to whether the proceedings taken by Mr. Nagarvala in pursuance of the information given to him by Mr. Morarji Desai were investigational or were merely the working out of an information. The decision of that question is dependent on the nature of information conveyed by Professor Jain to Mr. Morarji Desai and by him to Mr. Nagarvala. That information related to a conspiracy to murder Mahatma Gandhi, a part of which was entered into in Bombay although the overt act was to be and was at Delhi. This would fall within S. 57 of the Bombay City Act as the offence is cognizable.

25.29 The case of the prosecution in court was that Savarkar had joined the conspiracy at Bombay though this part of the case was not proved. Jurisdiction of the Courts and also of the police depends on the allegations made and not on the allegations being proved.

25.30 Mr. N. M. Kamte, Inspector General of Police, Bombay, witness No. 4 was also of the opinion that when Mr. Nagarvala was "working out the information given to him by Mr. Morarji Desai", he was really investigating into a cognizable offence within S. 57 of the Bombay City Act.

25.31 This may give rise to the argument of confusion, as also of illegality, due to there being two First Information Reports and two investigations. It is true that the argument of confusion might arise but there is nothing illegal and two First Information Reports are not unknown in our law books. The only effect of two First Information Reports is that the one prior in time is considered to be the First Information Report and the subsequent one is hit by section 162 of the Criminal Procedure Code.

25.32 In this particular case there was no danger of confusion for two reasons—one, that the investigation at Bombay would have been complementary and supplementary to the investigation at Delhi and would not have been in substitution of the Delhi investigation; secondly, although the matter arose later, the Delhi Police had themselves come to Mr. Nagarvala to give him some information and to arrest Karkare. Of course, the visit became fruitless and whatever information the Delhi Police had went awry but that does not detract from the usefulness of a proper investigation by the Bombay City Police.

25.33 Even if the Commission were to proceed on the basis that what the Bombay Special Branch were doing was an inquiry to work out the information given by Mr. Morarji Desai like any other C.I.D. or police would have done then also the Bombay Special Branch do not come off without blemish. Whether the Bombay Police was investigating under Chapter V of the Bombay City Act or was acting under S. 32(1)(b) to obtain intelligence in the circumstances of this case it would have made no difference as to the ultimate object, e.g. to bring offenders to justice and to prevent the commission of cognizable offences. In either case, the nature of blame was the same.

25.34 Two salient features of the information given by Mr. Morarji Desai were: the complicity of V. R. Karkare of Ahmednagar and the suspicion of V.D. Savarkar of Bombay being also a participant in the conspiracy which had resulted upto then in the explosion of a bomb and an attempt to murder Mahatma Gandhi. The police may not have known much about V. R. Karkare but they were fully aware of the political philosophy of Savarkar, whose followers though not active in the City of Bombay were quite active in Poona. And Karkare's activities could have been obtained from Ahmednagar if an effort was made.

25.35 After the information given by Mr. Morarji Desai the police also came to know about D. R. Badgee even though it is said that he was a mere source of supply of illicit arms and not a conspirator; but his arrest had been ordered on the 24th January, 1948

which must be an exercise of power under Ss. 32(1)(b) and Chapter V of the Bombay City Act. His activities also could easily have been found out from the Poona Police just as Karkare's could be got from Ahmednagar and Poona Provincial C.I.D. There is fortunately no indication that the Bombay Special Branch shared the view held by Mr. Sanjevi and Mr. U. H. Rana that the conspirators would not strike so quickly and so soon particularly when one of them had already been arrested. Although Mr. Nagarvala tried to contact the D.S.P. Ahmednagar, he could not get him. He made no second attempt. He got into touch with his brother who was an Hony. Magistrate. Perhaps the District Superintendent of Police of Ahmednagar might not himself have been of much assistance in this matter but he could easily have found out from his subordinates regarding Karkare about whom they had complete information. Whether as a matter of fact the D.S.P. would have been useful is not relevant but the fact remains that no efforts were made to find out from him as to the particulars of Karkare or of his associations.

25.36 The combination of Karkare, of Savarkar, and some association of Badge and the evidence of throwing of a bomb were not proof of attempting to kidnap and thereby to immunise Mahatma Gandhi from his activities which were considered as pro-Muslim and anti-Hindu by the Savarkar school of thought. But the group had given enough proof of their real intention to murder. In the opinion of the Commission, efforts should have been made by the Special Branch to get whatever information it could from Ahmednagar and also to make full use of the Provincial C.I.D. which could be a source of useful information both in regard to Karkare as well as in regard to Badge. If Dy. Supdt. Chaubal of Poona and Mr. Gurtu, the A.D.I.G., C.I.D. of Bombay Province could supply useful information after the murder, they could have done so before the murder also. Evidence shows that the Provincial C.I.D. sent, on February 3, 1948, to the D.I.B., Delhi, photographs of Karkare and Apte, and also evidence of association of Karkare and Apte. Nagarvala was then investigating as a Delhi Officer. The same information would have been available to him as a mere C.I.D. fact collecting officer under S. 32(1)(b) of the Bombay City Act as also if he was acting under Ch. V of that Act.

25.37 This information could have been helpful in spotting Karkare and Apte at the Railway and Air terminals by intelligent watchers only and the same would apply to the watch at Savarkar's house. This is on the supposition that Kasar's statement to the Police was true. But even if it was not, the effort was worth making.

25.38 But the main error of Mr. Nagarvala was to pursue the theory of kidnapping which led him to suspect a different group of persons and thus led him into a *cul-de-sac*.

25.39 Commission would like to repeat that it is making these remarks 21 years after the occurrence when all the facts are known and there is no precognitive element in it. Mr. Nagarvala was acting on the information which he was getting from his informants and contacts on which he was entitled to rely and act and could also have been misled by faulty and wrong information supplied. But as it appears to the Commission, a more prudent course was that the

help of the Poona and Ahmednagar police should have been invited. Whether even then the elusive group of Godse's would have succeeded in getting out of the net and would have carried out the object of the conspiracy, no one can say.

25.40 Gopal Godse has said that the conspirators knew of the precautions which were being taken and that even if they had been arrested, there were others who would have carried out the object, i.e., they would have murdered Mahatma Gandhi. But this is also just a "might have". What would have happened, no one knows. What Gopal Godse has said might or might not have been correct. The police knew nothing about it and this could not have affected their course of action.

25.41 The Commission is not oblivious of the fact that the C.I.D. makes inquiries and collects information for the purposes affecting public peace. The Intelligence Bureau also performs the same functions but in regard to more important matters e.g. the security of the country and matters cognate thereto or connected therewith. Both of them are information collecting agencies. The functions of the former would probably fall within S. 23 of the Police Act (V of 1861); under section 32(1)(b) of the Bombay City Act and may be under sections 149, 150 of the Cr. P.C. The latter are not even police officers as they have to surrender their commissions; but that matter is not before the Commission. The question before the Commission is, what were the powers of Mr. Nagarvala when he, according to his saying, was working out the information i.e. whether he was performing a statutory function of investigating into a cognizable offence or he was just trying to collect information. In the circumstances, the Commission is of the opinion that he was discharging an investigational duty under S. 57 of the Bombay City Act, and this is supported by the fact that he ordered the arrest of D.R. Badge. But even if he was acting as a C.I.D. officer the course of inquiry would have been the same as also the objective of preventing the commission of a cognizable offence and bringing offenders to justice as the case may be.

25.42 The Commission has set out herein the relevant provisions of the three Acts, of the Criminal Procedure Code, of the Police Act, and of the Bombay City Act and a comparative table of the relative provisions of the 3 Acts are given in the Appendix III.

"Criminal Procedure Code

"CHAPTER XIII

"PREVENTIVE ACTION OF THE POLICE

Police to prevent cognizable offences

149. Every police officer may interpose for the purpose of preventing, and shall, to the best of his ability, prevent, the commission of any cognizable offence.

Information of design to commit such offences

150. Every police officer receiving information of a design to commit any cognizable offence shall communicate such information to the police officer to whom he is subordinate, and to any other

officer whose duty it is to prevent or take cognizance of the commission of any such offence.

Arrest to prevent such offences

151. A police officer knowing of a design to commit any cognizable offence may arrest, without orders from Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented."

"The Police Act (V of 1861)

Duties of Police Officers

23. It shall be the duty of every police officer promptly to obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances; to detect and bring offenders to justice and to apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension sufficient ground exists :"

"The City of Bombay Police Act (IV of 1902)

Duties of a Police Officer

32. (1) It shall be the duty of every Police Officer—

(b) to the best of his ability to obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and to lay such information and to take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of cognizable, and within his view of non-cognizable, offences;

(c) to prevent to the best of his ability the commission of public nuisances;

(d) to apprehend all persons whom he is legally authorised to apprehend and for whose apprehension there is sufficient reason;

25.43 The Crime Report of Mr. Nagarvala shows the course of investigation or even inquiry followed by him from January 21, 1948 onwards.

Crime Report

25.44 Crime report No. 1 of the Special Branch C.I.D. Bombay, Ex. 185, from January 21 to January 30 was written on January 31, 1948. Mr. Nagarvala was orally appointed investigating officer by Mr. Morarji Desai on this date and was later gazetted as Superintendent of Police of Delhi also with retrospective effect.

25.45 The first Crime report sets out what was done on the 21st when information was given to Mr. Morarji Desai by Prof. Jain and ends with what investigation was done by the Bombay police upto January 30, 1948. It begins by referring to the information given by Mr. Morarji Desai to Mr. Nagarvala at the Bombay Central Railway

Station of the B.B. & C.I.R. at about 6.55 p.m. The Home Minister, it is stated, had received information that the bomb thrown at the prayer meeting at Birla House at Delhi on 20th January, 1948 was an attempt on Mahatma's life by Madanlal and his associates Karkare and others. He was also told that Karkare and Madanlal had seen Savarkar immediately before their departure to Delhi. The orders of the Minister were to arrest Karkare, who belonged to Ahmednagar, and the Minister told him that for his arrest (really for detention) orders had already been passed. The Home Minister also directed him to inquire into the matter and apprehend the associates of Madanlal and Karkare.

25.46 Thereupon Nagarvala got into touch with his informants and contacts and instructed police officers to locate Karkare and his associates.

34/ By the 22nd January, 1948 the information was that one Balraj Mehta of Shivaji Park was an active member of the conspiracy. Orders were given to watch him and contacts at Ahmednagar were also asked to try and locate Karkare if he was there.

25.48 Information was received that Avtar Singh who was already under detention was also concerned in the conspiracy. A source from Ahmednagar informed Nagarvala that Badge of Poona was a close associate of Karkare and dealt extensively in arms, daggers and knives and he was also in the conspiracy. It was also learnt that Savarkar was fully aware of the conspiracy. As a matter of fact, he was the real instigator and had prepared the plan to murder the Mahatma and that his feigned illness was only a pretence and a cover. Savarkar's house was, therefore, ordered to be watched and 3 watchers Deshmukh, Dawood and Narayan were put on the job. This was on the 22nd January.

25.49 On inquiry it was found that Badge was not in Bombay. It was also learnt that among the other associates there were one Talwar, a Sikh, Somnath Kapur and Chavan, who was already under detention as he was an associate of Avtar Singh.

25.50 Report then mentions that the chief conspirators had a big following of disgruntled Punjabis and some followers of Savarkar belonging to the R.S.S. and they could get military arms and ammunition and had the backing of disgruntled rich Punjabis.

25.51 Mention is also made of a Deputy Superintendent of Police and an Inspector of Police from Delhi who contacted Nagarvala. They had come to Bombay to arrest Madanlal's associates, one of whom was Karkare. They were told of the efforts already made to arrest Karkare and that on his arrest he would be sent to Delhi. The names of other associates available with the Bombay Police were also given to the Delhi police officers. The trail of Balraj Mehta and the watch on Savarkar's house had not disclosed anything useful.

25.52 On 23rd January reports received were that neither Karkare nor Badge were in Bombay, and that there were both staunch Hindu Mahasabhaites and if they came to Bombay they would be at Parel, Hindu Mahasabha office and that that place was already being watched Balraj Mehta, it was learnt, used to meet his associates at the India Coffee House at Mahatma Gandhi Road. A watch was organised at that Coffee House also but without any tangible results. The same

was in the case of Savarkar's house. It was also learnt from Ahmednagar that Karkare was not there and his whereabouts were unknown.

25.53 On the 24th January watch on Balraj Mehta, Coffee House and the Savarkar Sadan were continued. Inquiries were also made in the Hindu Mahasabha circles about Karkare and Badge but nothing materialised. It was also learnt from Ahmednagar that Karkare had not returned to that place. Necessary arrangements were made to pay a personal visit to Ahmednagar but there is nothing to show that it materialised.

25.54 On 25th January 1948 it was learnt from a source that two Punjabis living in Arya Pathik Ashram, room No. 27, were close associates of Balraj Mehta and were dealing in arms; the description of these two Punjabis is given. In view of this it was decided to keep a watcher in room No. 26. The watchers reported that a suspicious looking person came in car No. BYF 2744 to the Ashram but the watcher did not know whom he visited. The watcher also said that the driver of the car also looked suspicious. It was also learnt that a brother of Karkare was working as a jobber in one of the Bombay mills and was living in Naigaum. A watch was organised on that house also. Information from Ahmednagar was that Karkare had not come to Ahmednagar nor could the whereabouts of Karkare and Badge in Bombay be found out. Savarkar's house was watched as before but nothing important had been revealed. So also about the watch on the Coffee House. It was also discovered that Balraj Mehta was holding long conversations with two persons in Parelkh Chambers Shivaji Park, one of whom was a Sikh and the other a Punjabi. But attempts to overhear the talks were unsuccessful because they were talking in Punjabi and the watcher could not understand it. The behaviour of these persons appeared to be suspicious.

25.55 On 26th January, 1948 the information was that Karkare had still not gone to Ahmednagar. Watch was maintained on Balraj Mehta, on India Coffee House, Savarkar's House and Arya Pathik Ashram but nothing came to light. Karkare and Badge could not be apprehended.

25.56 On 27th January, 1948 D.I.G., C.I.D. Poona returned from Delhi and Nagarvala discussed with him the investigation which had so far taken place in Bombay. Watch on Savarkar Sadan, on Balraj Mehta, Arya Pathik Ashram, Karkare's brother's house did not reveal anything but the watches were continued. The D.I.B. Delhi was apprised of the facts by telephone. Arrangements were made to call a man from Ahmednagar to identify Karkare and Badge in Bombay. The D.I.G. Poona was to take necessary action in regard to Badge as he was a resident of Poona and Karkare as he was resident of Ahmednagar.

25.57 On 28th January, 1948 the D.I.G. left for Poona. The watches were continued but nothing of any importance could be discovered.

25.58 On 29th January, 1948 watches were continued as before.

25.59 On the 30th January, 1948 night it was learnt that Mahatma's murderer was a Maharashtrian Nathuram Godse, a staunch follower of Savarkar. So arrangements were made to apprehend the various suspects who were already being trailed.

25.60 What follows would really be an investigation into the murder case but some of the steps taken are important to show in what direction the investigation had been proceeding.

25.61 On 31st January, 1948 it was learnt that if Nathuram Godse was the assailant of Mahatmaji, then the plot would be known to Savarkar and also to Damle his Secretary, and Kasar his Bodyguard, who both lived at Savarkar's house. This information was as a result of the interrogation of Chavan and Limaye who were already under detention.

25.62 Some very useful information was gathered from N.V. Limaye a detenu who said that Savarkar must be fully aware of the facts and Nathuram Godse must have consulted him before undertaking his mission. W.B. Chavan told the Police that Savarkar must have got the offence committed and that Godse must have been accompanied by his associate N.D. Apte because Godse never did anything without taking Apte with him. Thereafter Damle and Kasar were interrogated and Savarkar's house was placed under strict surveillance. Others interrogated were Balraj Mehta, Rameshwar Singh Thakur, Triok Nath Mehra, Fakir Chand Chopra, L.G. Thatte and Prahlad Dutt. As a matter of fact Dutt had been injured during the Police raids and had been sent to the hospital. From Damle and Kasar it was learnt that Godse and Apte had seen Savarkar twice or thrice before the bomb was exploded and it appeared from their story that on these occasions the plan to murder Mahatma Gandhi was finalised. They also disclosed that Karkare was an active Hindu Mahasabhaite and had also come to see Savarkar. He was accompanied by a young Punjabi whose name later was learnt to be Madanlal. They had an hour's talk with Savarkar. But neither of them was prepared to depose to anything which took place at the meeting at Savarkar's house. They also disclosed that Badge also used to come to see Savarkar. As a matter of fact Apte and Godse had free access to Savarkar and could come without any appointment or having to wait down-stairs.

25.63 No information could be obtained from Balraj Mehta, Avtar Singh and others, but Thatte disclosed that Apte and Godse were the two main organisers of Savarkar's Hindu Rashttra Dal whose members believed in Savarkar and his ideology. On the basis of this information Police decided to search Savarkar's house. When the Police arrived Savarkar significantly asked Nagarvala whether he had come to arrest him in connection with Gandhiji's murder. But when he was told that it was only a search in connection with Gandhiji's case, Savarkar pretended to be ill and went inside the room and lay down. The mob started attacking his house and it was the arrival of the Police which saved him and his property. He mentioned to the Police that the mob fury was likely to be repeated and wanted Police protection. Poona and Ahmednagar Police were contacted because of Karkare, Badge and others being the accused with instructions to carry out searches at their places of residence and to arrest them.

Several Hindu Mahasabhaitees who were anti-Gandhi were rounded up and their houses were searched but nothing important was recovered. Several other persons were arrested. They were all R.S.S. or Hindu Mahasabha workers.

25.64 *Crime Report No. 4* dated 2nd February 1948 shows that prior to their departure for Delhi Godse and his associates were in Thana. Therefore, the Bombay Police went to Thana and with the assistance of the local Police searched the residence of several persons in order to arrest Apte and Karkare and also for getting other evidence. It is not necessary to name these persons because they were interrogated but no useful information was obtained from them. Madanlal was called to Bombay because he had started "on the evil mission" along with others in Bombay.

25.65 *Crime Report No. 5* dated 3rd February 1948: Poona Police reported that in accordance with the instructions given to them by Nagarvala on 30th January 1948 at 10.20 P.M. they had carried out the searches in Poona of Hindu Rashttra Press and office, Hindu Mahasabha office, residence of Nathuram Godse, and of his parents, Apte's house, Badge's house and Athawle's house and some other places and houses. What was found at the houses of these various persons is set out in this *Crime Report*.

25.66 It was learnt from one B.D. Kher, an employee of the Hindu Rashttra Press that Godse and Apte had left Poona on or about 16th January 1948 and had not been seen in Poona since. The Poona Police also recorded the statement of several persons but it is not necessary to mention them. The houses of V.G. Gogte and G.V. Gutti, who were associates of Godse, were searched but nothing of any importance was found.

25.67 *Crime Report No. 6* of 4th and 5th February 1948 shows that Madanlal was flown from Delhi to Bombay and his interrogation started immediately. He disclosed that besides Godse who had been arrested in Delhi, the others who took part with him were: Godse's partner of Hindu Rashttra Paper, a Sikh Maratha of Poona, his servant, Karkare, and a Punjabi-speaking Maratha.

25.68 Badge was brought from Poona and he was questioned about his complicity in the bomb outrage. At first he denied his complicity but when confronted with Madanlal, Badge made a clean breast of the whole conspiracy and the persons concerned therein, and he said that an attempt made on Gandhiji's life was in pursuance of that conspiracy. His interrogation also revealed the information regarding the collection of arms and ammunition in Poona.

25.69 On 5th February 1948 Nagarvala took Badge to Poona and with the assistance of the Poona Police started investigation there. The house of Badge was searched. Several articles of arms and ammunition were found. Some other houses were also searched.

25.70 Badge disclosed the name of Gopal Godse as one of the conspirators. Investigation started in regard to him also. Gopal Godse was arrested and so were several others including N.R. Athawle.

25.71 *Crime Report No. 7* of 6th February 1948: Madanlal's interrogation was continued and he disclosed that he was taken by Karkare to Savarkar's house who complimented him on what he had already done and exhorted to continue his good work. This was on or about 10th January 1948. The interrogation of Madanlal and Badge was continued. Shankar Kistayya was then arrested and was

interrogated. Shankar disclosed that some money was given by an old man to Badge whose description tallies with Savarkar, but Shankar failed to identify Savarkar as the person who gave the money.

25.72 *Crime Report No. 8*—There is nothing important in the Crime Report No. 8.

25.73 *Crime Report No. 9* of 8th February 1948: It shows that Nagarvala went to Poona again and took Gopal Godse, Badge and Shankar with him. He carried on investigation there with the help of the Poona Police. Enquiries were also made about the absconding accused, i.e. Apte and Karkare in Poona and Ahmednagar but proved to be fruitless.

25.74 *Crime Report No. 10* of 9th February 1948: Before proceeding to Poona on 8th February Badge disclosed that in the morning of 17th January 1948 he arrived at V.T. from Poona and met Godse and Apte and engaged a taxi of which the No. was BMT 110 or BMT 101. He remembered the No. of the taxi because he had used it the whole day and in that taxi he took Godse and Apte to the airport. Taxi BMT was traced and its driver disclosed that his taxi had been engaged by three persons at V.T. Railway Station and he gave a receipt for what he was paid.

25.75 *Crime Report No. 11* of 10th and 11th February 1948: Shankar accused volunteered to point out the place in Delhi where he had hidden the explosives under Badge's instructions. So he was brought to Delhi by Mr. Nagarvala and he pointed out the place near the wall of the Hindu Mahasabha Bhavan which was dug up and several items of arms and ammunition were found.

25.76 *Crime Report No. 12* of 12th February 1948: Godse was brought to Bombay and he was interrogated about his co-accused Apte and Karkare. He disclosed the name of two women, Manorma Salve and Shanta Modak, the former a student and the latter an actress. It was through these women that Apte and Karkare were later arrested.

25.77 *Crime Report No. 13* (Ex. 105 A/I) shows that Mr. Morarji Desai in a statement disclosed the name of Prof. Jain as being his informant. Jain was therefore called for recording of his statement.

25.78 *Crime Report No. 14* dated 14th February, 1948 shows that both Apte and Karkare were arrested at Apollo Hotel one after the other, first Apte at 5.30 P.M. and then Karkare at 8.25 P.M. As it had transpired that Karkare had gone to the house of G.M. Joshi at Thana D.I. Sawant along with Apte was sent to Thana. But two other Police Officers were asked to stay on at the Hotel posing as employees. It appears that Karkare had left Thana earlier and when he came to the Hotel he was arrested at 8.25 P.M.; and therefore Apte was brought to the C.I.D. office by D.I. Sawant and Karkare was taken by the other Police Officers there and they were interrogated there.

25.79 *Crime Report No. 16* shows that on 26th January 1948 Apte and Godse came to Krishna Jivanji Maharaj and asked for some money or a revolver and they told him that they were out for some important work but the Maharaj gave them neither.

25.80 *Crime Report No. 17* dated 17th February 1948 (Ex. 105 B/I). It shows that Prof. Jain was examined on 17th February 1948 and his statement established the complicity of Madanlal, Karkare and Savarkar in the conspiracy to murder Mahatma Gandhi.

25.81 *Crime Report No. 18* dated 18th February 1948 shows that Apte stayed in Arya Pathik Ashram with Manoram Salve after the attempt on Mahatma Gandhi and the entries of the register of the Ashram showed that he did stay there.

Mr. Nagarvala's investigation—

25.82 The criticism of Mr. Nagarvala's investigation between the 21st and the 30th January was put by Mr. Lall in this way.

25.83 He argued that when Mr. Morarji Desai had mentioned the name of Savarkar in conjunction with Karkare and had also told Mr. Nagarvala that there was a conspiracy to murder Mahatma Gandhi, he should have directed his attention to Maharashtra/Brahmins to Savarkar and his followers who were mostly in Poona and Ahmednagar and not followed the will-o'-the-wisp of Punjabis and the theory to kidnap. He has also criticised Mr. Nagarvala for not mentioning the kidnapping theory in his Crime Report at all and he wanted the Commission to infer therefrom that what was stated in the Crime Report was not a correct representation of facts and that it was a false document. From the fact that the kidnapping theory is not mentioned in the Crime Report, no inference can be drawn that the crime Report is a false document. By the time the Crime Report came to be written, Mahatma Gandhi had been murdered so that the theory which Nagarvala was working on had been proved to be wrong if not *ignis fatuus*. He had by then been appointed a Special Officer of the Delhi Police to investigate into the murder. It was unnecessary at that stage to mention the tangential investigational line which for some reason or another perhaps wrongly Mr. Nagarvala had hitherto pursued.

25.84 The question in regard to Crime Reports from 21st to 30th would not be whether Nagarvala believed in the theory of kidnapping or in the theory of murder but what had to be shown was which persons were being suspected and there is nothing to indicate in that report that persons who were suspected of conspiracy to kidnap at that time were not persons, who were not suspected or could also not be suspects in the case of conspiracy to murder. Mr. Nagarvala seems to have gone off the tangent; ignored even what Mr. Morarji Desai told him: ignored the fact that the name given to him by Delhi Police was of Karkare which was also the name given to him by Mr. Morarji Desai. To this must be added the fact that Mr. Morarji Desai told him that both Madanlal and Karkare went to see Savarkar and had his blessings before they left for Delhi. And Savarkar according to the evidence before the Commission was opposed to the Gandhian philosophy and leadership. Ordinarily one should have thought that when the fuller statement of Madanlal was brought by Mr. Rana to Bombay on the 27th January, 1948, Mr. Nagarvala would have had the police curiosity or inquisitiveness to see the salient points contained therein. But both Nagarvala and Mr. Rana have stated that

Nagarvala did not read that statement that night. Therefore there is no reason to disbelieve Mr. Nagarvala's statement that he did not know of the mention of the "Hindu Rashtra" or the "Agrani" in Madanlal's statement till after the murder.

25.85 There is some corroboration of this from his letters Exs. 8 and 9. In Ex. 8 dated the 30th January, there is no mention of Godse or Apte, and emphasis is on the kidnapping theory. And Ex. 9 written after the B.B.C. news Apte's name is not there.

26.86 Mr. Lal then drew the attention of the Commission to the matter of Badge whose name has been mentioned in the Crime Report along with Karkare and for whose arrest Nagarvala had made an order on the 24th January 1948. He submitted that Badge's name had appeared even before the bomb was thrown at Delhi. For this he relied on the statement of Sub-Inspector Pradhan of the C.I.D. as he then was. Pradhan has deposed that it was about the 16th or 17th that he received a report that one Badge of Poona had come to Bombay with some associates of his and had gone to some place with arms and ammunition and that Badge was to proceed to Delhi that very night from V.T. He immediately left for V.T. but he was too late as by the time he got there the train had left. After the news of the bomb explosion at Delhi, he concluded from Badge's going to Delhi that Badge was connected with the incident and he informed Nagarvala accordingly and included Badge's name in the list of suspects. They were looking for Badge as well as for Karkare but they could not locate either of them and he suggested to Mr. Nagarvala that he (Pradhan) should go to Poona and make enquiries about Badge there but Mr. Nagarvala replied that an officer from Poona was coming and it would be better to make preliminary enquiries from him. Three or four days later, Deputy Superintendent of Police Deulkar came from Poona and Pradhan made enquiries from him and he said that Badge was an ordinary man just a *gondri* (a bard). Pradhan accepted Deulkar's word but continued to watch for Badge and Karkare, which is rather peculiar as he knew neither of them nor their identity.

25.87 Nagarvala was questioned about Pradhan's statement of including Badge's name in the list of suspects and the fact that they were looking for him and Karkare but they could not locate them. Nagarvala's reply was if Pradhan says so, it must be correct but he had no recollection of it. He added that even if Pradhan told him as he says he did, he (Nagarvala) would not have put Badge's name in the list of suspects in connection with the bomb incident because he was looking for him as a source of supply of arms.

25.88 Evidently Badge was not known to anybody in Bombay because Mr. Nagarvala on the first Crime Report has stated that arrangements were made to get somebody from Ahmednagar who would be able to identify Karkare and Badge. That would not have been necessary at least in the case of Badge if Pradhan knew him and could recognise him. In his statement in court as PW. 133, Mr. Nagarvala has said that he had ordered the arrest of Badge on the 24th January on certain information. The order for arrest, it may pertinently be remarked, could only be made if Mr. Nagarvala was acting under Chapters IV and V of the Bombay City Police Act. It is stated in the Crime

Report No. 1 that Badge of Poona who was a close associate of Karkare, dealt extensively in arms, daggers and knives and was also concerned in the conspiracy to take the life of Mahatma Gandhi. So it does not seem to be correct that Badge was being looked for merely as a supplier of arms but it may be that the police was looking for him as the person who had supplied the gun-cotton slab to Madanlal. Even on this premise Poona should have been contacted for the whereabouts of Badge and for his apprehension.

25.89 Ex. 110 is a chronological list of investigation at least that is what Pradhan has called it. It has entries made by Pradhan but it also shows that some entries were made by Mr. Nagarvala. An important entry is "Home Minister Bombay informed me of the conspiracy at the Bombay Central Railway Station and directed me to arrest Karkare, associate of Madanlal". This is struck out and on the top of that entry is added which appears to be in the hand of Mr. Nagarvala, "H.M.'s instructions regarding Karkare". Then the entry on the 22nd January is "Name of Badge transpired as one of the associates". "(2) Savarkar aware of conspiracy". This is struck out. About this document, Sub-Inspector Pradhan has said that this is a chronological list of investigation "most of which is in my handwriting and some of it in Mr. Nagarvala's handwriting." This document was for the guidance of Mr. Nagarvala. From all this Mr. Lal wanted the Commission to draw the inference that Badge was in the conspiracy and that is what the Bombay Police thought at the time and further that when Nagarvala says that Badge was not in Poona and therefore he did not look for him there is not correct because Badge has stated that he was at his house all the time and therefore the story about the watch at Badge's house could not be correct. Perhaps he was in Poona or may be he was underground but the tragedy has been that either for reasons suggested by Mr. Kotwal or some other reason, the assistance of the Provincial C.I.D. or the Poona District Police was not requisitioned by Bombay Police. And unfortunately Mr. Rana himself also ignored his own department and his own archives and did nothing to requisition their services. Delhi probably depended on Mr. Rana.

25.90 Mr. Lal then referred to the watch kept on Savarkar's house. Crime Report No. 1 at pages 2 and 3 shows that Savarkar was in the conspiracy and he only pretended to be ill and out of politics. At page 3 it is stated that Savarkar's house was put under an unobtrusive watch. The object was to notice who were visiting Savarkar. Mr. Lal argued that there is evidence to show that Godse and Apte had visited Savarkar's house before they went to Delhi to commit the murder.

25.91 Mr. Lal contended that this could not have been much of a watch if the watchers could not detect those visiting Savarkar and that seems to be the opinion of Mr. Barucha, the Commissioner of Police, which he expressed in Ex. 15, a letter addressed to Mr. Kamte, dated September 10, 1948. It may be mentioned that there is some criticism in Ex. 168 which is nothing on Ex. 14, the explanation of Nagarvala, saying that the watch was not efficient. But evidently Mr. Dehejia did not agree with this criticism. Ex. 9, Mr. Nagarvala's letter

to Mr. Sanjevi dated 31st January, 1948, shows that during the course of enquiries in the last 24 hours, it transpired that the assailant with Apte had seen Savarkar on the eve of his departure to Delhi. But Nagarkar in his statement before the Commission has denied the correctness of this fact and has said that the subsequent investigation showed that this was not correct.

25.92 Even the statement of A.R. Kasar, Savarkar's bodyguard, Ex. 277, puts the visit of Apte and Godse on or about the 23rd or 24th January which was when they returned from Delhi after the bomb incident and not on the eve of their departure which if proved might have been an important link in the conspiracy case. G.V. Damle, Savarkar's Secretary deposed that Godse and Apte saw Savarkar in the middle of January and sat with him (Savarkar) in his garden.

25.93 So that Mr. Lal's attack on Mr. Nagarkar's investigation was three pronged: (1) Badge was suspected as a conspirator and not merely as a source of supply of illicit arms; and no one knew him in Bombay but still no effort was made to get him identified if he came to Bombay, or to get the Poona Police to arrest him as he was all the time in Poona at his house during the period 23rd to 30th January or call for the help of Poona Police. (2) Although Mr. Nagarkar knew that Karkare belonged to Ahmednagar, no effort was made to get the help of Ahmednagar police except trying to contact the D.S.P. once. There was a complete record of Karkare with Ahmednagar Police which if sent for would have been a valuable piece of evidence to crack the conspiracy case. At any rate the Poona Provincial C.I.D. should have been contacted and the information which was received after the murder could have been called for before the murder. (3) The watch at Savarkar's house was most inefficient and ineffective. A proper watch and a tail put on would have disclosed the connection of Godse and Apte with the conspiracy.

It was also argued that the Crime Report was not a true document.

25.94 This line of attack on the investigational processes followed by Mr. Nagarkar savours of a charge not only of inefficiency but also of dishonesty against an officer of the rank of a Deputy Commissioner of Police of Bombay which in the opinion of the Commission, is not well founded. That does not mean that the investigation or even inquiry as it has later been termed by Mr. Nagarkar was in any way free of all blemish. Disregarding the factual criticism against Mr. Nagarkar, there are some broad features of the investigation or inquiry conducted by him which, in the opinion of the Commission, detract a good deal from all the hard work put in, from all the careful planning which was done in keeping a watch at some of the important places and of putting into operation contacts which a properly run and an efficient police like the Bombay City Police always has at its command and which it could without delay put into operation whenever the need arose. And Mr. Nagarkar did move his men and informers and contacts etc. quickly into the field of operation and they did start collecting information and passing them back to Mr. Nagarkar or to his officers.

25.95 The real difficulty with the police inquiry or investigation at Bombay has been that from the very beginning or at an early stage it was steered along a wrong course. There may perhaps be nothing wrong in the theory that a large number of Punjabis disgruntled, frustrated, dishonoured, despoiled and rendered homeless had plotted together to drive away the Muslims from Bombay by the use of violent means. It is not only possible but probable that in the achievement of this objective they had secured the help of Maharashtra Savarkarites who were equally anxious to drive out the Muslims, but could one extend the objective of this plot to harming Gandhiji by kidnapping him, although they might have been as much anti-Gandhi or anti-Congress as their counterparts in the North.

25.96 One may go further and accept that in the conspiracy to murder the number of participants might have been larger than the number against whom the police could get evidence or prove their case and this is shown by the statement of Gopal Godse, Wit 33. It may be that Mr. Nagarkar's informants were referring to them. But the main question for inquiry was, were they mainly Savarkarites or a conglomeration of others also Gopal Godse's reference appears to be to the former.

It may be and is probably correct that the contacts did give this or this kind of information that all these people had joined together to stop Mahatma Gandhi's solicitude for communal amity, which could only be achieved by avoiding riotous scenes and violence of one community against the other. It is also possible and even probable that all this led the informants of Mr. Nagarkar to believe that this group wanted to kidnap Mahatma Gandhi. But in the circumstances and in view of the information which Mr. Nagarkar had received from the Home Minister coupled with circumstantial evidence before him, this information by the informers and contacts did not merit that amount of serious pursuit which it got right up to the time when the letter Ex. 8, dated 30th January 1948, was written by Mr. Nagarkar to Mr. Sanjevi.

25.97 The bundle of facts which were given to Mr. Nagarkar were destructive of any theory, but the theory of conspiracy to murder Mahatma Gandhi by Savarkarites and if there were any circumstances which lent support to the theory of conspiracy to kidnap, they were far outweighed by the facts which pointed to the conspiracy to murder by a set of Poona Savarkarites rather than a mixed group of Savarkarites and General Mohan Singh's Punjabi discontents.

25.98 Mr. Morarji Desai in his statement before the Commission and his statement in court has set out the information which he gave to Mr. Nagarkar. He related to him the story which had been unfolded to him by Prof. Jain and Mr. Nagarkar in his statement has repeated what Mr. Morarji Desai told him, that Madanlal had exploded a bomb at the Delhi prayer meeting of Mahatma Gandhi and he was accompanied by Karkare from Ahmednagar; that Madanlal and Karkare had seen Savarkar before they went to Delhi and that the

home Minister had told him that he had received definite information that it was an attempt on the life of Mahatmaji made by Madanlal, Karkare and their associates. All this was an index to the conspiracy being directed against the life of Mahatmaji rather than towards his mere immunisation through kidnapping, and what is still more important the participants were more likely the Poona Savarkarite Maharashtrians rather than a kaleidoscopic group mentioned by Mr. Nagarvala.

25.99 It appears to the Commission that Mr. Nagarvala's greater reliance on his contacts and informants, who were working on a large number of Punjabis like Avtar Singh etc. being in the conspiracy to kidnap, was an error of judgment when viewed in the light of other information with him i.e. the information given by Mr. Morarji Desai about Karkare, Savarkar and dump of arms which heavily tilted the scales in favour of the theory to murder and of the participants being Savarkarite Maharashtrians.

25.100 Mr. Nagarvala's contention is that he was making an enquiry to work out an information and that he was not investigating. The Commission wishes that he had been officially appointed to investigate like he was after the murder. In that case he would not have been deprived of the assistance of the Delhi Police nor would he have been supplied with the scrappy information which the Delhi Police gave him. There was no rapport between the two police forces. They were even at cross purposes; one felt insulted the other, considered it unnecessary intrusion.

25.101 Mr. Nagarvala's attitude towards the Delhi Police is shown by a passage in his statement before the Commission when he said: "The Home Minister had asked me to look for Karkare and his associates. If the Delhi Police alone had come I might have referred them to the local C.I.D. or to the C.I.D. Crime Branch or to the Divisional Police."

25.102 This attitude is rather surprising because any information regarding the safety of a person of the eminence of Mahatma Gandhi could not be so casually or lightly treated and the Commission is not willing to believe that even Mr. Nagarvala would have done it had such a contingency arisen.

25.103 The Delhi Police had sent two police officers to get the help of Mr. Nagarvala for the arrest of Karkare and, according to their police diaries, also of the editor of the *Agrani* which fact is controversial and has been discussed under the heading "Ex. 5-A". But this much appears to be non-controversial that the two officers were present at the interrogation of Madanlal on the 20th January as a consequence of which two places—the Marina Hotel and the Hindu Mahasabha Bhavan—were searched. From the former two names, S and M Deshpande, alleged to be of the companions of Madanlal, were discovered. From the room in the Hotel was also recovered Ex. P-25 a very recent statement of the Secretary of the Hindu Mahasabha, repudiating its acquiescence in Gandhiji's Seven-Point formula showing that the conspirators whoever they were, had a strong Hindu Mahasabha connection. Besides Madanlal had been

searched and a handgrenade had been found on his person. Unfortunately, all this does not seem to have been disclosed to Mr. Nagarvala, and the Delhi Police seems to have emphasised the controversial document Ex.5-A and the information contained therein. If this non-controversial information alone had been conveyed to Mr. Nagarvala, then coupled with the mention of Savarkar and Karkare it would most probably have led Mr. Nagarvala to adopt a correct investigational track leading to a conspiracy to murder by quite a number of Poona Savarkarites and not the *cul-de-sac* of conspiracy to kidnap by a combination of disgruntled Punjabis and angry Maharashtrians. This information to a prudent and careful detective might have, if not would have, deterred persistence in a fatuous pursuit of discovering the identity of a mixed lot of future kidnappers rather than a number of murder conspirators hailing from the districts of Maharashtra parts of Bombay and owing allegiance to Savarkar and his ideology.

25.104 The Commission would like to emphasise that the difference between the two theories, the theory of conspiracy to murder and of conspiracy to kidnap was this; that in the former case the emphasis would have been on Savarkarites of Poona who did believe in political assassination, and in the latter the emphasis could and would have been on a mixed crowd as indeed it was in the present case.

25.105 No doubt, the Commission is viewing this matter twenty-one years after, when all the facts for and against both theories are before it and Mr. Nagarvala was on a search for and collection of these facts and had to work out the clues and had to piece many bits of all kinds of information together like a jigsaw puzzle, but still on the following facts amongst others the proper conclusion, in the opinion of the Commission, was a conspiracy to murder and not a conspiracy to kidnap:—

- (1) The information which had been given by Mr. Morarji Desai to Mr. Nagarvala;
- (2) The explosion of gun cotton slab at the prayer meeting;
- (3) The mention of the association of Savarkar, and Madanlal and Karkare having interviewed Savarkar before they left for Delhi;
- (4) The mention of a dump of arms guarded by a Maratha with a Sikh-like appearance.

25.106 All these facts taken together were destructive of any theory other than the conspiracy to murder by Savarkar and his group and, in the opinion of the Commission, Mr. Nagarvala tripped because perhaps he was badly served by informants and contacts on whom he had every right to rely or there was some erroneous conclusion. Of course, he does say that this was merely an information which had yet to be verified; but did it deserve to be so seriously considered under the circumstances?

25.107 Some criticism has been levelled in regard to the manner in which Badge's name was brought in. Whether Badge was a supplier of arms and the search was on to find out who had supplied the

illicit arms to the persons who were being kept under watch by Mr. Nagarvala, or it was that he was a member of the conspiracy, is immaterial. The fact remains that his name was mentioned in connection with Mahatma Gandhi's murder and efforts should have been made to get him apprehended if he was in Poona and to put a search on if he was anywhere else. A highly technical plea of the limited powers of Mr. Nagarvala under the City of Bombay Police Act is hardly relevant to this matter and may not have any force in view of Ss. 239 and 177 Cr. P.C. and of the decisions of the Privy Council in *Babulal Chokani's* case (65 L.A.158; A.I.R. 1938 P.C. 130) that conspiracy to commit an offence and the commission of the offence are a part of the same transaction; and the decisions of the Supreme Court that the offences of conspiracy to murder and murder itself can be tried at either of the two places if those two offences take place at 2 different places. *Purushottamas v. State of West Bengal* A.I.R. (1961) S.C. 1589, and *L. N. Mukherjee v. State of Madras* A.I.R. (1961) S.C. 1601. This would presuppose police investigation at either of the two places.

25.108 Even in regard to Karkare an effort was made by Mr. Nagarvala to find out about him from Ahmednagar. But persistence in that effort could have been fruitful in another direction though not in apprehending him at Ahmednagar as he never went there again. Mr. Kotwal has argued that the information which the D.S.P. Ahmednagar had (Ex. 115-C) was scrappy and almost innocuous if not useless. That may be so but this argument ignores the information which S.Is. Balkundi and Deshmukh had collected which would have given the antecedents and associations of Karkare. Even according to Mr. Nagarvala's information Karkare and Badge were friends.

25.109 After the murder, and this is shown by Intelligence Bureau File No. 13/HA(R)/59-II, Ex. 224-A information was obtained by the Intelligence Bureau from the Provincial C.I.D. Poona, in regard to Karkare and Apte. Apte is shown as a friend of Karkare and photographs of both Karkare and Apte were evidently available from the files of the Provincial C.I.D. which were sent to the Intelligence Bureau after the murder. Or as S.I. Balkundi of Ahmednagar police has stated Karkare's "dossier" could be made available from Ahmednagar. As a matter of fact he supplied Karkare's photograph after the murder. This information could have been obtained earlier for which the blame is more on the D.I.B. but the Bombay City Police (Special Branch) can also not escape sharing this blame, as they were too insular and did not extend their investigational operations beyond the city of Bombay by seeking the cooperation of the Bombay Provincial C.I.D. The photographs are attached herein. (see next page)

25.110 For the inquiry to have been a proper one, it was, in the opinion of the Commission, necessary that contacts should also have been made with the Provincial C.I.D. Poona and with Ahmednagar Police and not merely with the persons with whom they were made by the Bombay City Special Branch.

25.111 The evidence of S.I. Balkundi shows that he supplied the photograph of Karkare and also who his associates were, one of them being Apte. Any enquiry from Ahmednagar should have brought this

information to Bombay Police, also the information that Godse and Apte used to visit Karkare, their activities were watched but nothing was found as a result thereof.

25.112 The Commission cannot help repeating that the kidnapping theory and the theory of conspiracy to murder materially differed in the matter of the participants. In the case of the former the accent would have been on Savarkarite Maharashtrians of the Rashtra Dal brand mainly hailing from Poona and in the case of the latter it could be a mixture of Poonaites, Bombayites and other disgruntled elements mostly Punjabees. The persons to be watched and looked for by the police would have been different in the two cases.

25.113 Mr. Nagarvala had stated in his Crime Report No. 1 that Savarkar was at the back of the conspiracy and that he was feigning illness and was wrongly giving out that he was out of politics. He was asked in his evidence why he did not arrest Savarkar or detain him, his reply was that he could not do so before the murder as that would not only have caused commotion in the Maharashtrian region but an upheaval.

25.114 Another lapse in the investigational processes in Bombay can justifiably be attributed to Mr. Rana. He reached Poona on the 28th January and his evidence shows that he called the D.S.P. of Poona and asked for Inspector Angarkar for the 29th. Rao Sahib Gurtu was also there and according to Ex. 30, Mr. Rana's letter to Mr. Kamte, the names of Apte, Godse and Badge were "known from R.S. Gurtu". In his testimony before the Commission, Mr. Rana stated that when asked Gurtu gave him the names of the editor and proprietor of the *Agrani* and the *Hindu Rashtra* and of the proprietor of the *Shashtra Bhandar* to be Godse, Apte and Badge respectively and he gave these names from memory. This is indicative of the fact that even on the 28th no effort was made to find out where the companions of Madanlal were nor any effort made to arrest Badge whom Mr. Nagarvala was looking for. By then Madanlal's statement, Ex. 1 was with Mr. Rana if not with Mr. Nagarvala and Mr. Rana could have as he should have warned Delhi as well as Bombay about them and flown watchers and other alert policemen to Delhi as he did after the murder. Here were future murderers on the prowl and no effort was made at the Poona end to warn Delhi or to take preventive measures. Of course by the 28th January Apte and Godse were in Delhi and Karkare who was from Ahmednagar was also at Delhi. Photographs of the latter two could also have been flown to Delhi. Some effort should have been made in that direction even if it was rather late. But the Police could not divine that the murder will take place on the 30th.

25.115 There had been three previous incidents indicating where strong anti-Gandhi feeling existed and who were at the back of it. Mr. K.M. Munshi has indicated the intipathy and antagonism to Mahatma Gandhi and his policies and leadership was known to exist in a goodly measure i.e., the group led by Savarkar. At Panchgani in July 1944 that very group had held a black flag demonstration. At Bevgaram also in 1944 (August) they wanted to stop, to put it very

mildly, the Mahatma's car and the leader L.G. Thaité carried a "blade dagger. The then British Indian Police stopped the mischief in both these cases but played down the incidents. There was yet another in 1946 and that was the attempt to derail the Gandhi special just beyond Karjat on the Kalyan and Poona section. The situation was saved by the presence of mind of the driver, Mr. Pereira. Two of the party of the Mahatma considered it to be an attempt on Mahatma's life. The police again played it down. The responsible Bombay newspapers also were of the same opinion as the police. Commission has therefore had to accept the police version but all these incidents were coincidentally very ominous.

25.116 If properly analysed they might have helped in unearthing the party behind Madanlal's bomb, particularly when Madanlal had mentioned Savarkar and Karkare and "Maharathas" which is a Punjabee way of describing everyone who is Marathi speaking. Unfortunately the Delhi Police never gave out to the Press or on the radio anything about the result of their investigations i.e., of the name of Karkare, Savarkar and companions being Marathas. Even if due to the fear of the Law of Contempt or due to propriety Savarkar and Karkare could not be mentioned, Marathas could be which would have helped in alerting Poona and Ahmednagar. There was nothing to prevent Mr. U.H. Rana conveying these names to Poona or if not names at least the companions being Marathas. Mr. Rana did nothing when Mr. Gurtu disclosed to him the names of Godse, Apte and Badge but helplessly asked for Angarkar and Deulkar both clever sleuths.

25.116A In not seeking this aid of the Provincial Police, the lapse might have been of the Bombay City Police and more so of the Delhi Police but there is no evidence of any alertness or anxiety on the part of Bombay Provincial C.I.D. or the District Police of Poona or of Ahmednagar to look into the police files about these matters including the 3 incidents above mentioned and volunteer information to Delhi or Bombay. The plea taken is that they were not sure about Madanlal's identity. But even if the police was uncertain, the offering of information would not have been contrary to any rule or regulation.

25.117 Technically, Bombay Provincial Police and the Delhi Police and even the Bombay City Police might have been three separate "forces" but they were the police of one country. It is difficult to accept the proposition that any knowledge or information about "Ahmednagar" Madanlal who had earned notoriety in Ahmednagar and who had committed an offence against Mahatma Gandhi at Delhi, was no concern of the police at Ahmednagar or at Poona.

25.118 This view of multi-sectionalism of police was put forward before the Commission by Mr. Rajadhyaksha, Inspector General of Police of Maharashtra and strongly pressed by Mr. Kotwal, but Mr. R. N. Bannerjee's view was different. He based his view on conventions. If the argument means that police of one Province or State has no concern with what offence takes place in another State and it need not supply any information it has about the alleged offender or a party of offenders even in matters of national importance which

the bomb at Delhi was then the Commission would not accept that argument or its validity and would strongly deprecate that argument and view. And if that is the law or convention then sooner the law is changed and proper conventions established the better. Any acquiescence in Mr. Rajadhyaksha's point of view will be destructive of the country's oneness and an aid to the offenders to go scot free. As it is, the position at present is not too good qua apprehension of offenders.

Conspiracy to Kidnap.

25.119 The theory of conspiracy to kidnap Mahatma Gandhi which has been variously described as fantastic, fatuous and even incredible was sought to be given respectability by Mr. Kotwal. He argued that it was no fault of Mr. Nagarvala if during the course of his investigation the evidence disclosed a conspiracy to kidnap Mahatma Gandhi and he tried to investigate into the correctness or otherwise of the information.

25.120 Mr. Nagarvala in his statement before the Commission has stated that as a police officer if he learnt something about a gang wanting to kidnap Mahatma Gandhi he was duty-bound to diligently inquire into the matter. He added that his mind was open and he was not obsessed by anything. When asked by the Commission as to whether he seriously believed in the kidnapping theory, his reply was that he did and he added that a police officer does not allow his likes or dislikes to interfere and affect his enquiries.

25.121 Mr. Kotwal has tried to support the kidnapping theory or to contest its being called fantastic by saying that the object at that time was to stop Mahatma Gandhi's anti-Hindu activities as they were understood by the people of Poona and even elsewhere. The conspiracy was formed on the 9th January and its objective was achieved on the 30th January. There was nothing strange, he said, that at that time, i.e., when Nagarvala was instructed by Mr. Morarji Desai to look into the matter, the theory of kidnapping should not have looked baseless because the original object might have been to stop the payment of 55 crores to Pakistan and kidnapping was a less cruel way of stopping it and after the money had been paid it would have stopped the anti-Hindu activities of the Mahatma or what those people thought was anti-Hindu.

25.122 There is evidence, submits Mr. Kotwal, to show that other people had given credence to this theory. He referred to the evidence of Professor Jain who stated that Madanlal had told him that he would throw a bomb at a prayer meeting and thus cause confusion which would enable them to overpower Gandhiji.

25.123 Rai Sahib Rikhiresh, witness No. 13, said "Madanlal had stated in his statement about the conspiracy to kidnap Mahatma Gandhi" but this is not found in either of the statements of Madanlal, Ex. 6 or Ex. 1. Mr. G. K. Handoo, witness No. 48, had said that the object of his being brought over in a hurry was that there was a fear of other leaders being murdered and probably they thought that the gang connected with the murder of Mahatma Gandhi was a very large and powerful one and would strike at other leaders also. Gopal Godse's statement is that even the arrest of Nathuram and

Apte and Karkare could not stop the murder of the Mahatma as others would have done so. This is some evidence of a larger number being involved but it does indicate that all the conspirators might not have been arrested. Of course, this bit of evidence does not support the theory of conspiracy to kidnap but it does support the fact that there was a gang of a large number of powerful people which according to information given by his contacts was conspiring to kidnap.

25.124 In his demi-official letter, Ex. 8, dated 30-1-1948, Mr. Nagarvala wrote to Mr. Sanjevi that a large number of persons had joined together to oust the Muslims and for the purpose had collected weapons of all sorts including bombs, and that his opinion was that this gang thought it would be easy to win over the Delhi Police and to kidnap Mahatma Gandhi.

25.125 Witness No. 4, Mr. Kamte, the then Inspector General of Police when recalled stated, "If I had the information which Professor Jain gave to the Home Minister and the Minister passed it on to Mr. Nagarvala in regard to the kidnapping theory of Mahatma Gandhi, I would have worked on that theory". But as far as the Commission has been able to see, the Minister never gave any information to Mr. Nagarvala in regard to kidnapping.

25.126 Mr. Morarji Desai as witness No. 96 when examined on this point, stated that Jain did not inform him about kidnapping, that the idea of kidnapping was fantastic but even then the kidnapping theory would not have impaired the course of investigation.

25.127 Mr. Nagarvala was further cross-examined about the conspiracy to kidnap and he said that he was not going to forget or overlook the information about the conspiracy to murder but as information of conspiracy of kidnapping had transpired, he had to take it up. Later he again reverted to the subject and said that he had not abandoned the murder theory. The theory of kidnapping was there but that did not mean that the murder theory had been given up. He added that he had to carry out the Home Minister's orders and if during the course of that he learnt about kidnapping, it was his duty to verify that information.

25.128 Mr. Morarji Desai also has deposed that the kidnapping theory could not impair the value of the investigation and that Nagarvala did all he could to work out the information given by him (the Minister) and that they were working on the theory that there would be a further attempt on the life of Mahatma Gandhi.

25.129 Even Mr. Sanjevi had not taken any objection to this theory of kidnapping. Mr. Nagarvala has deposed that he told Mr. Rana about this theory and a long distance telephone call was made to the D.I.B. to whom the theory of kidnapping was repeated but he did not say anything showing that he thought it to be absurd nor did he disapprove of it or deprecate it. Mr. Nagarvala has stated that everyone was satisfied in regard to the kidnapping theory. Mr. Rana also said that when the theory of kidnapping was conveyed to Mr. Sanjevi on the long distance telephone he did not say anything in disapproval of this theory. Further Mr. Nagarvala told Mr. Sanjevi that security arrangements regarding Mahatma should be strengthened.

25.130 Mr. Sanjevi in paragraph 8 of his note, Ex. 7, has stated that Rana rang him up on the 27th evening and gave him the information which he (Rana) and the Bombay Police had of the conspiracy to kidnap Mahatma Gandhi. "He told me that it was a very big organisation with about 20 principal conspirators each assisted by 20 persons and in possession of considerable quantities of fire arms and other lethal weapons." But there is nothing to indicate in this note that when Mr. Sanjevi got this information he ticked off both Rana and Nagarvala because if the theory was absurd and fantastic, one should have expected that Mr. Sanjevi would tell both Rana and Sanjevi what he thought of the theory and express his opinion clearly if not forcefully indicating disapproval.

25.131 The evidence discussed above shows that there was information with Nagarvala indicative of the conspiracy to kidnap Mahatma Gandhi and that this evidence was not frowned upon by the higher officers if it did not receive their acceptance. It also shows that investigation could have been as vigorous if Nagarvala was acting on the kidnapping theory as it would have been if he were acting on the theory to murder.

25.132 Mr. Kamte, witness No. 4, Inspector General of Police of Bombay, said that he had no knowledge that the intention of the conspirators was to kidnap Mahatma Gandhi. In his opinion it was fantastic theory.

25.133 Mr. Morarji Desai, witness No. 96, stated that he was not told of the theory of kidnapping and if it had been, he would not have accepted it because it was an impossible kind of theory and he would have disabused Nagarvala's mind about the matter because it was a fantastic idea. He only came to know about it when he saw the explanation of Nagarvala in November 1949.

25.134 This track of investigational procedure, i.e., of conspiracy to kidnap ignored the definite information given by Madanlal to Professor Jain and relayed through Mr. Morarji Desai to Mr. Nagarvala that Madanlal and his companions were going to murder a big leader who was none other than Mahatma Gandhi, that his financier Karkare had formed a party in Ahmednagar which indulged in violence, that there was a dump of arms with the party and finally that Savarkar had patted Madanlal on the back appreciating his actions. Further, if Jain's name had been disclosed to Nagarvala, his interrogation by trained and experienced police officers of the Bombay Police would, in all probability, have weighed the scales heavily in favour of the murder theory and would have enfeebled the theory of kidnapping if not jettisoned it. One can quite appreciate the desire of Jain not to have his name disclosed but he could have been given protection in some other manner and even Nagarvala could have been asked to keep his name secret. Besides, if Jain was anxious to go to Delhi to get more information out of Madanlal which would have unveiled his identity he should not have been afraid to appear before Nagarvala.

25.135 As already remarked, another big difference in the consequences of pursuing the two theories was this. In the conspiracy to kidnap, the suspected participants amongst others were a large

number of Punjabis, names of some of whom are given in the Crime Report, and in the letter of Mr. Nagarvala to Mr. Sanjevi; and in the investigation of the conspiracy to murder theory, the suspected participants were different, i.e., people coming from a particular section of the Maharashtrian community of Poona and Bombay. Of course, they could also have been very many more than those put up for trial. As far as the Commission can see from the evidence before it, the emphasis would in the case of murder conspiracy be directed against the comparatively smaller set of Maharashtrians rather than on a large number of persons, a mixed crowd of Savarkarites and of Punjabi Hindus having a grievance on account of the aftermath of the Partition of the country. In other words, in case of the murder theory, the investigational energies would have been directed against the disgruntled, antagonistic Maharashtrian Savarkarites, who because of strong idealistic and fundamental differences with Mahatma Gandhi would unhesitatingly end the Gandhian menace once for all, which in their view was the only way to ensure a Hindu Hindustan in contrast to a secular India.

25.136 The Commission on the facts placed before it is unable to find that the attempt to give respectability to the kidnapping theory has, in the circumstances, succeeded

Mr. Morarji Desai, Wit. 96—

25.137 Mr. Morarji Desai, witness No. 96, who was at the relevant time Home Minister in the Bombay Government, has, during the course of his statement before this Commission, taken upon himself the responsibility of having advised, by giving benefit of views and knowledge and experience, and having directed the investigation of the case from 21st January, 1948 onwards. He emphasised that he was enquiring from the police as to what it was doing in the matter of investigation of the bomb case and the murder case, that he was keeping in touch so as to express his views on the subject, that the investigation was being carried on "under my direction", and that he had asked Nagarvala to arrest Karkare or to get him arrested through Ahmednagar Police. The Commission is really concerned with the period upto January 30, 1948. Although this question of ministerial powers regarding arresting of offenders and with reference to the Code of Criminal Procedure is discussed at length at another place, the Commission would here like to observe that directing the police how to carry out its statutory duties, or any interference with the statutory duties of the police imposed upon it by the Code of Criminal Procedure, or by the various Police Acts, or any other statute by an elected Executive, is foreign to the notions accepted in countries governed by Common Law. It is for this reason that both the Government of India Act of 1935, in S. 49, and the Indian Constitution, in Article 154, have excluded statutory powers performable by other authorities under an existing statute from the purview of the functions of the Provincial and now the State Governments; and the Code of Criminal Procedure was an existing law.

25.138 It will be best to put Mr. Desai's part in the investigation of the bomb case in his own words both before this Commission as well as at the trial in the court of Judge Atma Charan and the statement made by him in the Bombay Legislative Assembly in March 1949.

25.139 To start with, Mr. Desai as a witness for the prosecution, No. 78, before Judge Atma Charan stated that when Nagarvala met him at the railway station on January 21, 1948, he gave to Nagarvala all the information which he had received from Professor Jain in the afternoon in regard to the conspiracy to murder Mahatma Gandhi without disclosing to him the name of Professor Jain, who wanted his name to be kept secret because of the danger to his life. But he did disclose the name to Sardar Patel. To put it in his own words—

"I told Nagarvala what had been narrated to me by Professor Jain. I asked him to take action in the matter. I asked him to arrest Karkare, to keep a close watch on Savarkar's house and his movements and to find out as to who were the persons involved in the plot."

25.140 He also stated—

"I kept myself in touch with the investigation after 21st January 1948. I had kept myself in touch with the investigation that was going on in the Bombay Province."

25.141 In cross-examination he explained what he meant by "keeping in touch". He said—

"By the words 'keeping in touch with the investigation' I mean that I had from time to time asked Mr. Nagarvala as to what progress was being made in tracing out the person concerned."

25.142 Mr. Desai also stated in court that he considered Jain's version to be genuine because—

"I have got a long experience in judging witnesses. I was myself a Magistrate for over 11 years..... My experience as a Magistrate had automatically come into operation at the time."

25.143 He then said:—

"I had asked Mr. Nagarvala to get in touch with the D.I.G., C.I.D., Poona. I had asked him to do so at the Railway Station on 21st January, 1948."

25.144 The next piece of evidence which relates to this question is contained in Ex. 232, a copy of speech made by Mr. Morarji Desai in the Bombay Legislative Assembly on March 12, 1949, on a Cut Motion. There he said that he conveyed the information that he received from Professor Jain to Sardar Patel at Ahmedabad on the 22nd January. As a matter of fact, he went to Ahmedabad for the purpose of giving this information to Sardar Patel because it was not safe to telephone to him. Talking about his interest in the investigation he said:—

"I told the police officer to take action against everybody who came under suspicion. Mr. Jain has not said that he gave me names of two other persons who ultimately were found to be in the conspiracy and who had nothing to do with the offence."

"I have stated that steps were taken by the police force, I know all that because I was inquiring of the police officer constantly as to what was being done not only before the incident, but even afterwards when the offence was being investigated because I wanted to give him the benefit, if any, of my views and knowledge. I found that they were constantly on the move. Even at midnight I found that they were on duty. I found that the police were not even caring for their meals. They had so much concentrated on the work. That is why I cannot say that they failed in their duty."

25.145 Before this Commission, he has again deposed as to the interest he took in the matter of investigation after the information received from Professor Jain and after he had conveyed that information to Mr. Nagarvala. To quote from his evidence he said:—

"I was asking Nagarvala about any further progress of the case. In my opinion, the practice which prevails in England that starting and withdrawing of cases is the sole responsibility of the Attorney General is not the constitutional practice in India."

"I did not ask Nagarvala about every minute detail but I asked him how his work was proceeding. I did all that what I thought proper and best in the circumstances."

"I was enquiring from Nagarvala as to the progress of his investigation from the time I gave him the information, i.e., on the 21st January 1948. I also continued taking interest and kept on getting information from Nagarvala about what was happening after the murder was committed."

"Going back again over the events as they took place and the circumstances which existed then and capacities of the different persons involved, engaged in the investigations, I have no doubt in my mind that they did all that they could and they gave their best throughout."

25.146 When the statement made in the Assembly was put to him, he said:—

"I would not have said all this if it were not correct. I was saying all this from my personal knowledge. It is correct that I was asking throughout from the police officers as to what they were doing because I could have had the advantage to express my views on the subject."

25.147 When he was asked about the efforts to locate Karkare, his reply was:—

"No. It is not so because I was keeping in touch with, and I was making enquiries as to what they (the police) had done about Karkare. They were trying to do their level best; I was told that the house of Karkare was kept under watch during those days but could not trace him."
"I told this Nagarvala because Karkare was involved in the plot as disclosed by Jain and I had asked Nagarvala to

arrest him if he was found in Bombay and to get him arrested through Ahmednagar police if he were to be in Ahmednagar."

"Nagarvala was frequently reporting to me about what he was doing—he might have seen me two or three times but exactly how many times, it is now difficult to say. I was anxious to know what Nagarvala was doing about Karkare."

"I have heard from Counsel portions from the evidence of Nagarvala as to what he was doing *qua* kidnapping theory but that would not impair the value of the investigation which 'was being carried out under my instructions'. But during the investigation, Nagarvala never told me anything about kidnapping, as far as I remember."

25.148 This would show that—

- (1) when Mr. Desai gave to Mr. Nagarvala the information he received from Professor Jain, he asked Mr. Nagarvala to arrest Karkare and keep a watch on the house of Savarkar; because he considered the information received from Jain to be authentic for which conclusion he was relying upon his eleven years magisterial experience;
- (2) he told Nagarvala to take action against anyone who came under suspicion, which Nagarvala would in any case have done if the suspicion was reasonable;
- (3) he had, at the Railway Station, asked Nagarvala to get into touch with the D.I.G., C.I.D., which was unfortunately disregarded;
- (4) he was constantly enquiring from Mr. Nagarvala as to what was being done about the investigation because he wanted "to give him the benefit, if any, of his views and knowledge";
- (5) his experience as a magistrate had automatically come into operation at the time;
- (6) he was asking Nagarvala about further progress of the case;
- (7) he does not accept the English constitutional practice that starting or withdrawing cases is the responsibility of the Attorney-General; that may not be a wholly untenable claim under the Indian law, because the giving of sanctions to prosecute under various statutes is in the discretion of the Government and not of the Attorney-General or the Advocate-General;
- (8) he did not ask for minute details, but about the progress of the investigation both of the bomb case and of the murder case;
- (9) in his opinion, the police did its best; as best as it could;
- (10) he kept on enquiring about Karkare whose arrest he had told Nagarvala to effect if in Bombay and if he was in Ahmednagar, to get him arrested there; he was anxious to know about Karkare;

- (11) Mr. Nagarvala saw Mr. Morarji Desai which turns out to be twice or thrice; might be more;
- (12) Mr. Nagarvala was carrying out investigation under Mr. Desai's "directions" but Nagarvala never told Mr. Desai of the kidnapping theory which according to Mr. Desai, did not impair the quality of the investigation.

25.149 It may be observed here that Mr. Nagarvala was mainly working on this theory of kidnapping as his letter, Ex. 8 dated January 30 to Mr. Sanjevi shows and therefore his energies were mostly directed against what Mr. Lal calls the Punjabees and which led to dissipation of the major part of investigational energies.

25.150 In this connection it will be helpful and fair to discuss what Nagarvala had to say about this matter. In reply to a question as to the kidnapping of Mahatma Gandhi, he said it was not his theory but he learnt that during the course of his investigation and he was having interviews with the Home Minister and was keeping him informed of what his enquiries had disclosed. Explaining this he said:—

"What I mean to say is that I was working on the information given to me by the Home Minister and at the same time telling the Home Minister the result of my enquiries."

25.151 In answer to a question whether the Home Minister kept himself in touch with the investigation, Mr. Nagarvala said:—

"I have already stated that the Home Minister and the Commissioner were being kept informed from time to time of the information that I was working on and the lines on which the enquiries were developing."

25.152 He said that he used to see the Home Minister on an average about thrice a week and get instructions from him on various matters but added that that was the practice then prevalent which the Deputy Commissioners of Police had by tradition been following.

25.153 He later said:—

"I was reporting to the Home Minister personally on what I was doing in connection with the case. Because I got the information and instructions from the Home Minister, I reported to him from time to time as to what I was doing. I would have done the same thing if I had got instructions from the senior officers. Right from the 21st to the 30th I had kept the Home Minister informed of everything that I was doing. I can say that the Home Minister was satisfied with that I was doing because if he had not been, he would have told me and he would not have recommended my name for investigation into the murder. I must have seen the Home Minister during this period several times."

25.154 Mr. Nagarvala, after he was recalled, said:—

"As I have said before the Commission about the kidnapping theory, I did mention this to Mr. Morarji Desai. If he says

that I did not, it may be due to the fact that he has no recollection of it after such a long time. As far as my recollection goes, I remember I did tell him (Mr. Morarji Desai) about this and my records support my statement. I would like to add that I have stated as before that I met the Home Minister between the 20th and the 30th January 1948 on several occasions in connection with what I was doing to carry out the information which he had given to me. His instructions were that I should arrest Karkare and his associations—associations include his associates and his activities—connected with the bomb explosion. I learnt certain things when I was trying to arrest Karkare and his associates. In this connection I met the Home Minister and I must have discussed with him about the kidnapping theory as this was one of the things I learnt while I was making enquiries about Karkare and his associates. And when I met the Home Minister it would be very natural that I would discuss with him all that I had done and all that I had learnt during the course of my enquiries because it was according to me that Karkare was not in Ahmednagar and was not available and could not be located. I would not run up to the Home Minister merely to inform him that I was unsuccessful in arresting Karkare. If I were to see the Minister, I would meet him with the object of informing him of what I had done."

25.155 Unfortunately in this case the statements of Mr. Nagarvala and Mr. Desai are not in accord on the question of kidnapping theory and there is intrinsic evidence which makes this claim of direction giving the benefit of views and knowledge and his magisterial experience coming into automatic operation to be merely euphemistic phraseology.

25.156 If the language used by Mr. Morarji Desai were to be taken in its literal sense, it would invite the application of the principle of "direct responsibility" of a Minister for any blemish in the investigation carried on and done by Mr. Nagarvala or by the Bombay Police before the murder, and would fall under the first rule set out in the speech of Lord Kilmuir referred to in the chapter dealing with Ministerial Powers and Responsibility. This would be an example of a Minister unwittingly inviting direct blame upon himself by the use of euphemistic phraseology and also by claiming to possess authority to act where he had no jurisdiction.

25.157 By merely making enquiries in a case like the present from Mr. Nagarvala on two or three occasions as to how the investigation or inquiry was proceeding would hardly amount to giving directions as to the course of investigation or how Nagarvala should proceed in discharging his statutory duties.

25.158 Mr. Nagarvala's investigation was being steered along a course of which the haven was kidnapping of Mahatma Gandhi. Of such a course even if chartered, Mr. Desai, according to his own testimony before the Commission, was kept ignorant. He has expressly stated that he would not have accepted it, though he is of the opinion

that that would not impair the value of the investigation. Secondly, except that Mr. Desai gave the information to Mr. Nagarvala and asked him to arrest Karkare wherever found, to get into touch with the D.I.G., C.I.D., Poona and to watch the house of Savarkar, he has only been asking about the progress of the case without finding out minute details, which in a case where the life of a person like Mahatma Gandhi was endangered, a prominent Minister belonging to the Congress Party or even to any other party might well do without infringing constitutional propriety. Perhaps, it may be necessary to know all that to discharge his constitutional duty towards the Legislative Assembly. But that also was on two or three occasions as Mr. Morarji Desai himself has defined the word "frequently". Mr. Morarji Desai's statement on the question of kidnapping was emphatic and he considered it fantastic not without good reason. But he added that it could not impair the quality of investigation and it could only have culminated in the murder of Mahatma Gandhi, i.e., the ultimate object of kidnapping was murder.

25.159 Mr. Nagarvala was equally emphatic in asserting that he did mention kidnapping to Mr. Desai otherwise he could not have succeeded in getting Mr. Desai's sanction for taking over the men belonging to the Bomb Squad. The matter is more than 20 years old and *lausus memoriae* cannot be ruled out. Besides, the trend of Mr. Nagarvala's statement shows that he had got from his contacts the fact of a large number of Punjabis and others being in the conspiracy and this was only a kind of information on which he was working and which had yet to be verified. Mr. Nagarvala could have given only this nebulous information to Mr. Morarji Desai without specifically mentioning the objective being to kidnap Gandhiji and that alone could explain this contradiction in testimony of these two witnesses, otherwise this is an inexplicable contradiction. But the Commission would again observe that a Home Minister's interest in the investigation of a case of this national importance may be laudable and perhaps an expected requisite but it cannot be allowed to extend to control or direction or supervision or giving the benefit of experience. The Commission does not accept the validity of the claim that the elected Executive has the authority to control the statutory duties imposed upon the police in the matter of investigation both by the Criminal Procedure Code and by the Police Act and the Bombay City Police Act, 1902. If this claim were to be accepted as valid both in law and in fact then it would render a Minister directly responsible for any vice in the conduct of an investigation. These are matters which both the Government of India Act of 1935 and the Constitution of India 1950 expressly exclude from the functions of the Central Executive or the Provincial and now the State Executive.

25.160 The law in regard to control over statutory authorities as to how they should exercise their statutory powers was decided by the Supreme Court in a case as long ago as 1952. In a matter relating to the permission for erection of a cinema the grant of which or refusal or withdrawal was within the exclusive discretion of the Commissioner of Police, this was made clear by the Supreme Court. See the *Commissioner of Police, Bombay v. Gowardhandas Bhanji*¹. In

that case, a permission for erection of a cinema granted by the Commissioner of Police was subsequently withdrawn under the orders of the Government and it was held that the withdrawal was invalid as it was not within the power of the Government to direct the withdrawal of such permission, the grant, refusal, or withdrawal of permission to erect a Cinema being entirely within the discretion of the Commissioner of Police.

Savarkar's personal staff—

25.161 The statement of Appa Ramchandra Kasar, Bodyguard of V. D. Savarkar (Ex. 277) which was recorded by the Bombay Police on 4th March 1948 shows that even in 1946 Apte and Godse were frequent visitors of Savarkar and Karkare also sometimes visited him. During the period when the question of Partition of India was being discussed all these three used to visit Savarkar and discussed with him the question of the Partition and Savarkar was telling Apte and Godse that Congress was acting in a manner detrimental to the Hindus and they should carry on propaganda through the agency of the Agrami against the Congress, Mahatma Gandhi and his dictatorial policy.

25.162 In August 1947 when Savarkar went to Poona in connection with a meeting Godse and Apte were always with Savarkar and were discussing with him the future policy of the Hindu Mahasabha and told them that he himself was getting old and they would have to carry on the work.

25.163 In the beginning of August 1947, on the 5th or 6th, there was an All India Hindu convention at Delhi and Savarkar, Godse and Apte travelled together by plane. At the Convention the Congress policies were strongly criticised. On the 11th August Savarkar, Godse and Apte all returned to Bombay together by plane.

25.164 In the month of November 1947 there was a conference of All India State Hindu Mahasabha at Mahim and Dr. Parchure and Surya Dev of Gwalior also attended that meeting.

25.165 In the middle of December 1947, Badge came to Savarkar to enquire after his health but he could not see him. But two or three days later he again came and had a 15-minute talk with Savarkar. Karkare, Apte and Godse also met him during that month twice or thrice.

25.166 On or about 13th or 14th January, Karkare came to Savarkar with a Punjabi youth and they had an interview with Savarkar for about 15 or 20 minutes. On or about 15th or 16th Apte and Godse had an interview with Savarkar at 9.30 P.M. After about a week or so, may be 23rd or 24th January, Apte and Godse again came to Savarkar and had a talk with him at about 10 or 10.30 A.M. for about half an hour.

25.167 When the news of Mahatma Gandhi's murder was announced on the radio at about 5.45 P.M., Kasar went and informed Savarkar who said that it was a bad news and then kept quiet. The same night at about 2 A.M. both Damle and Kasar were arrested and brought to the C.I.D. office. Kasar said that he did not know anything about the assassination.

¹ A.I.R. 1952, S.C. 16.

25.168 Gajanan Vishnu Damle, Secretary of Savarkar, was also examined on 4th March 1948 by the Bombay Police. He said that he had known N.D. Apte of the Agrani for the last four years. Apte started a rifle club at Ahmednagar and also was an Honorary Recruiting Officer during the war. Apte was a frequent visitor to Savarkar's house and sometime came with Godse. Savarkar had lent Rs. 15,000 to Apte and Godse for the newspaper when security was demanded from the Agrani. That paper was stopped and the new paper called the Hindu Rashtra was started. Savarkar was one of its Directors and Apte and Godse were the Managing Agents. He knew V.R. Karkare who was a Hindu Mahasabha worker at Ahmednagar for about three years and occasionally visited Savarkar. Badge was also known to him for the last three years. He also used to visit Savarkar.

25.169 In the first week of January 1948, Karkare and a Punjabi refugee boy came to see Savarkar and they both had an interview with Savarkar for about half an hour or 45 minutes. Neither of them came to see Savarkar again.

25.170 Apte and Godse came to see Savarkar about the middle of January 1948, late at night. Last time that Badge paid a visit to Savarkar was in the last week of December 1947. Several prominent Hindu Mahasabha leaders like Dr. Moonje used to come and see Savarkar.

25.171 On or about 26th January 1948, Ashutosh Lahiri, Secretary of the All India Hindu Mahasabha also came to Savarkar Sadan. He was accompanied by two others and from the aerodrome they went straight to Savarkar in his upstairs room. On the next day, Lahiri again came to see Savarkar and was with him for about one and a half hours. He then went to Poona and returned on the 29th January. He again came to see Savarkar on the 30th and had a long talk with him. Lahiri held a Press conference at about 4 P.M. and he was to address a public meeting at Chaupati, which was cancelled due to the assassination of Mahatma Gandhi.

25.172 When the radio news was announced, Damle immediately went to report to Savarkar who said that he would give a statement to the Press next morning. The same night Damle and Kasar were arrested.

25.173 The statements of both these witnesses show that both Apte and Godse were frequent visitors of Savarkar at Bombay and at conferences and at every meeting they are shown to have been with Savarkar. In January 1948 they were travelling with him both from Delhi to Bombay and back. This evidence also shows that Karkare was also well-known to Savarkar and was also a frequent visitor. Badge also used to visit Savarkar. Dr. Parchure also visited him. All this shows that people who were subsequently involved in the murder of Mahatma Gandhi were all congregating sometime or the other at Savarkar Sadan and sometimes had long interviews with Savarkar. It is significant that Karkare and Madanlal visited Savarkar before they left for Delhi and Apte and Godse visited him both before the bomb was thrown and also before the murder was committed and on each occasion they had long interviews. It is specially to be noticed that Godse and Apte were with him at public meetings held at various places in the years 1946, 1947 and 1948.

Investigation showing association of Apte and Karkare--

25.174 Intelligence Bureau file No. 13/HA(R)/59-II, Ex. 224-A, contains some important and revealing documents. At page 11 of this file there is a forwarding letter No. C/3 dated 3-2-1948 from G.S. Chaubal, one of the Deputy Superintendents of Police of the C.I.D. in the office of the D.I.G., C.I.D., Poona and is addressed to Mr. J. D. Nagarvala, Deputy Commissioner of Police with a copy to Mr. M. K. Sinha, Deputy Director, I.B. in the Ministry of Home Affairs. To this letter was attached a document giving a list of relatives and associates of Karkare and his description. Among the friends and associates at No. 10 was N.D. Apte of Poona. This letter was received in the Intelligence Bureau on the 6th February and was seen by Mr. M. K. Sinha, Deputy Director on February 9, 1948. These delays in the receipt of important letters are both astounding and not an uncommon feature of the investigation.

25.175 The next document is at page 13 and is addressed by Mr. Chaubal to the Inspector General of Police, Delhi, with a copy to the Deputy Director, I.B., Government of India. It is dated February 1, 1948. It says that four Head Constables were being sent to watch the activities of Maharashtrians, especially N.D. Apte who is considered inseparable from N.V. Godse and is also the person referred to in Madanlal's statement as proprietor of the *Hindu Rashtra* of Poona. Their duty will be to point out to the police at Delhi these persons with a view to preventing any further outrage. The constables sent were—

Head Constable Kulkarni

Constable Mahajan.

Head Constable Jadhav.

Head Constable Kadam.

The letter further mentions the sending of an Inspector also to interrogate and assist the Delhi Police in identifying Karkare if he happens to be there.

25.176 Another document is at page 14 dated 6-2-1948 from the office of the D.I.G., C.I.D., Poona and is addressed to Mr. M.K. Sinha, Deputy Director, I.B. It is a forwarding letter showing that three copies of photographs of N.D. Apte with a descriptive roll and three copies of V.R. Karkare's photograph were sent therewith. The description of Karkare which is a part of the photograph is as follows:

"Age 35, white complexion, fair-looking, strong built; round face; at times clean shaven, flat nose, high (height?) about 5 feet 7 inches. Usually wears Dhoti, shirt and black cap. Is in the habit of smoking beedis."

This description is considerably different from that in Ex. 6 or Ex. 244.

(See Photographs on next page).

25.177 It appears that N.D. Apte's description was sent by Poona C.I.D. on February 6 and seen by Mr. M.K. Sinha on February 17

which shows the whole of this information moved at a leisurely speed in the Bureau. The description was as follows:—

"Age about 36, strong built, grey eyes, narrow chin, wheat colour, clean shaven, oval face, broad forehead, straight nose, height 5'6". Does his hair on western fashion, wears pyjamas at times in western attire, smokes, caste—brahmin. Residence at 22 Budhawar, Poona."

25.178 Another letter at page 21 dated 3rd February 1948 is from the D.I.G., C.I.D., Poona to the Inspector General of Police, Bombay with copies to the Deputy Director, I.B., New Delhi and Deputy Commissioner of Police, Bombay. This was also received in the I.B. office on 9th February 1948. The report attached to this letter is dated the 3rd February 1948 and shows what action was taken at Poona and Lonavala (near Poona) showing that police had started taking diligent interest in the investigation. If the information about Karkare and his association with N.D. Apte and the photographs of both Karkare and Apte were in the possession of the D.I.G., C.I.D., it is surprising why nobody asked for it earlier and it is more surprising that Mr. Rana should not have directed his office to send these photographs at least of Karkare whose name was known and the name of his associates to Mr. Nagarvala at Bombay or to Mr. Sanjevi at Delhi. Mr. Nagarvala also could have easily asked for this information from the office of the D.I.G., C.I.D., Poona which is equally applicable to the D.I.B. at Delhi who was also Inspector General of Police at that time. The sending of these Head Constables from Poona if it had been done earlier as was suggested in the statements of Mr. N.M. Kamte and Mr. R. N. Bannerjee, might have averted the catastrophe. Of course, it is only a "might have".

25.179 To proceed with the investigation discernible from the I.B. file, we find that at page 23 is a letter from Mr. Sanjevi to Mr. R. N. Bannerjee dated 7th February 1948 saying that it had been decided that headquarters of the investigating staff would be at Bombay and the investigation would be personally directed by Mr. Rana, D.I.G., C.I.D., Bombay Province and Mr. Nagarvala, Deputy Commissioner of Police, Bombay. It further mentions the staff that would be needed and that it would consist of officers and men from various Provinces and would be 'hand-picked'. Investigation was also to extend into some other States under the States' Regional Commissioners. It was also decided that for enquiries to be made in various Provinces, staff will have to be called for from U.P., C.P., Bihar and Madras, and Delhi would contribute its own quota. The whole thing was to be under the overall control of the D.I.B., Delhi.

25.180 There is evidence of R.S. Rikhhikesh that at one stage it had been decided to send Madanlal to Bombay for investigation into the bomb case. If that had been done, the investigation at Bombay might have been more rewarding than it was. Besides the sterile and routine investigation which was carried on at Delhi between the bomb throwing and the murder of the Mahatma might not have been continued to its tragic end.

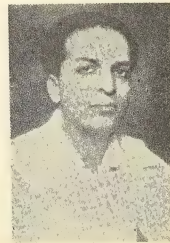
25.181 At various pages of that file, there is a mention of different persons who were arrested and interrogated but at page 52 is the



V. R. Karkare [See para 25.176]



N. D. Apte [See para 25.176]



statement made before a magistrate under section 164 Cr. P.C. of one Devendra Kumar, who was originally resident of Goa and had joined the Hindu Rashtra Dal in March, 1937. He stated that he met N.V. Godse who was Captain of the Dal. The statement shows how the deponent was taught to manufacture bombs and to use guns from bicycles and cars and how to use pistols and revolvers. He was also training others. Among other things he disclosed that it was planned that Mahatma Gandhi, Nehru, Sardar Patel, Maulana Azad and Baldev Singh should all be killed as they were standing in the way of the Rashtra Dal. The party was waiting for a chance to execute this programme. He then added:—

"We were creating hatred against these leaders in the minds of the public and it was planned that as soon as the public was ready the leaders should be killed one by one When I heard of the sad incident about Gandhiji I became unnerved. I dropped a letter to Savarkar threatening to expose the conspiracy if he did not desist from the execution of the rest of the programme.....".

25.182 Among the names of the conspirators to assassinate Mahatma Gandhi, he named Desh Pandey, Apte, Godse, A. Chavan, Modak, Jog, Damle and Kasar, Secretary and Bodyguard of Savarkar respectively, Keskar, Joshi, Jogulkar and Chandershekar Ayer. He gave a list of the manufacturers of bombs and amongst them was D.R. Badge of Narainpeth, Poona. This statement may in the context of the offence mean nothing but it does show that after the murder the police throughout the country became active. Devendra Kumar was examined by a magistrate at Mirzapur in U.P. and the investigation was done by officers of Benaras and Lucknow. This Devendra Kumar was brought to Delhi and was examined by the police there and his statement shows a fair amount of knowledge of the working of the Hindu Mahasabha and the Rashtra Dal and that among the prominent workers of the Savarkar group were Kasar, N.D. Apte, N.V. Godse, Karkare and several others with whose names we may not be concerned. The statement also mentions a session of the Hindu Mahasabha at Barsee where N.V. Godse made a very fiery speech and raised most objectionable slogans against the Congress Government like "Down with Maulana Gandhi", "Down with Gandhism". Godse also advocated the collection of arms and ammunitions to fight the Congress and the main targets were "Maulana Gandhi", Pandit Jawaharlal Nehru, Sardar Patel, Maulana Azad and Baldev Singh. This was at a meeting of the Hindu Rashtra Dal at Jogeshwari Temple at which Godse, Apte, Karkare, Kasar and several others were present.

25.183 At page 88 is a report made by C.I.D. officers regarding Bharatpur State that State cars were placed at the disposal of the R.S.S. It also shows the complicity of Bachu Singh, the brother of the Maharaja, in the R.S.S. activities.

25.184 At page 161 is the progress report No. 9 which shows that Inspector Abdul Razak was sent to locate Karkare at Ahmednagar and he reported that Karkare was not traceable there but was reported to be hiding in Bombay. This report is dated 9-2-1948. He also gave a list of 14 addresses where he was likely to be found.

25.185 At page 167 there is a report which shows that Sardar Angre's son and Sardar Shatole's son had some interest in the murder.

25.186 At page 170 there is a memorandum from the office of the Inspector General of Police, Delhi, asking Rai Sahib Rikhikesh to send copies of report of his investigation to Mr. Rana at Poona by registered insured post.

25.187 These documents have established that—

- (1) The D.I.G., C.I.D., Poona had or could easily get a very clear record of the identity of V.R. Karkare and N.D. Apte, and it could have been made available to the Bombay Police as also to the Delhi Police, if either or any one of them had made the slightest effort to get it. N.D. Apte's name was not known at the time though Madanlal had disclosed his avocation in his fuller statement, Ex. 1. But the information with Provincial C.I.D. could have helped in unearthing N.D. Apte who was an associate of Karkare as shown by the letter of Deputy Superintendent Chaubal dated February 3, 1948, to Deputy Director, I.B. Whether with this information Karkare would have been apprehended or the Mahatma's life saved is a speculative matter because with all the wide-spread net he was not arrested till the 14th February, 1948. But the police should have searched for his antecedents from Poona C.I.D. and Ahmednagar Police. Whether the knowledge about Karkare if given earlier would have been fruitful is a matter of speculation but it was the duty of the police at Poona to give that information and of the investigating police to ask for it.

It will be fair to add that according to the evidence of Deputy Superintendent Balkundi, witness No. 37, the information in regard to V.R. Karkare and his photograph was supplied by him after the murder of Gandhiji when he was called by wireless to Poona.

This however does not detract from the criticism that an earnest and diligent inquiry from the Provincial C.I.D., Poona could have been as helpful before the murder as it was after the murder.

- (2) The Provincial C.I.D. at Poona did send four police officers to Delhi to assist the police there in order to watch the activities of Maharashtrians there specially of N.D. Apte whose identity Madanlal had indicated in his statement as proprietor of the *Hindu Rashtriya*. If these officers could be sent on February 1, 1948 to protect the top ranking ministers of the Central Government, surely they should also have been available to protect Mahatma Gandhi. It is not clear whether it was at the request of Delhi Police or at the suggestion of the Provincial C.I.D. of Poona that these officers were sent. Mr. Kamte said in his letters that they were sent at his instance. But, in the opinion of the Commission that is not relevant; what is relevant is that

they should have been available to Delhi after the bomb incident. According to the evidence of Mr. R. N. Bannerjee, the Home Secretary, and Mr. Kamte, the Inspector General of Police, Bombay, they could have been sent *suo motu* by Poona and according to Mr. Rajadhyaksha, the present Inspector General of Police at Bombay they could only be requisitioned by the Delhi Police. Whatever be the position the fact remains that they could be made available and should have been sent to protect the Mahatma.

- (3) After the murder the police suddenly woke up into diligent activity throughout India of which there was no evidence before the tragedy.

CHAPTER XXVI

FINDINGS

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CHAPTER XXVI

FINDINGS

26.1 The terms of reference of the Commission were as follows—

- (a) Whether any persons, in particular Shri Gajanan Viswanath Ketkar, of Poona, had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi;
- (b) whether any of such persons had communicated the said information to any authorities of the Government of Bombay or of the Government of India; in particular, whether the aforesaid Shri Ketkar had conveyed the said information to the late Bal Gangadhar Kher, the then Premier of Bombay, through the late Balukaka Kanetkar;
- (c) if so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India and by the officers of said Governments on the basis of the said information.

Term of Reference (a)

26.2 The first term of reference, (a), comprises the following two questions for determination—

- (i) Whether any persons had prior information of the conspiracy of Nathuram Vinayak Godse and others to assassinate Mahatma Gandhi; and
- (ii) whether Gajanan Viswanath Ketkar in particular had such information.

26.3 The Commission has already held in the Chapter "Scope of the Inquiry" that the scope is not circumscribed by the technical meaning of the word 'conspiracy' but on a true interpretation of the word, in the present inquiry it would also cover plan or intention to assassinate the Mahatma and danger or threat to his life. On that interpretation the following gentlemen from Poona must be held to have had prior knowledge: Balukaka Kanetkar, S. R. Bhagwat, Mr. R.K. Khadilkar, Mr. Keshavrao Jedhe, M.C.A., and Mr. G. V. Ketkar. In this category, one may include Mr. N. V. Gadgil who was given some information by Mr. Jedhe, though wholly hazy and misty, in language which was full of conundrums and which, therefore, makes it almost valueless. Besides these gentlemen, Mr. Purshottam Trikamdas, Barrister-at-Law, of Bombay witness No. 15, has deposed that a man came to him whose name he does not remember and he said that the life of Mahatma Gandhi was in danger. Mr. Purshottam took him to Mr. Kher and then to Mr. Morarji Desai who has no recollection of this. Mr. Kanji Dwarkadas, witness No. 7, has also given evidence of some information which Mr. B.G. Kher had but the Commission is unable to derive much benefit from his testimony. That is the finding of the Commission on the first question under the first term of reference.

26.4 If the word "conspiracy" is read in its technical sense, then the only persons, who, before the bomb was exploded at Birla House, had any knowledge of conspiracy were Professor Jain and his friends Angad Singh and Professor Yajnik and after the bomb was thrown Mr. G.V. Ketkar also had this information. The others cannot be said to have had any knowledge about the conspiracy. But the former did not have any knowledge of Nathuram Godse whereas Mr. G.V. Ketkar had that knowledge.

26.5 As regards the second question the Commission has found in the discussion in the chapter '*sub-nomine*' G. V. Ketkar and Balukaka Kanitkar, i.e., under the first term of reference (a), that Mr. G.V. Ketkar whose name has been particularised in the first term of reference, did have, according to his own statement, knowledge of danger to the life of Mahatma Gandhi, knowledge that Nathuram Godse was determined to murder him and also the knowledge of conspiracy to murder Mahatma Gandhi in which besides Nathuram Godse, there were other participants e.g. Badge and Apte.

Term of Reference (b)

26.6 The second term of reference i.e. (b) when quoted runs as follows—

"(b) whether any of such persons had communicated the said information to any authorities of the Government of Bombay or of the Government of India; in particular, whether the aforesaid Shri Ketkar had conveyed the said information to the late Bal Gangadhar Kher, the then Premier of Bombay, through the late Balukaka Kanitkar;"

This term of reference gives rise to the following two issues—

- (1) Whether any such persons as are referred to in term (a) and who had information about the conspiracy of Nathuram Godse etc. communicated the said information of the conspiracy etc. to
 - (i) any authorities of the Government of Bombay
 - or (ii) any authorities of the Government of India.
- (2) Whether G.V. Ketkar aforesaid in particular conveyed that information to the late Mr. B.G. Kher the then Premier of Bombay through the late Balukaka Kanitkar.

26.7 The first issue of the second term of reference requires determination by the Commission of the fact whether any of the persons falling within the first term of reference conveyed the information about the conspiracy of Nathuram Godse or to give it an extended interpretation about any plan or intention to assassinate or of any threat or of danger to the life of Mahatma to the authorities therein mentioned; and, whether Mr. G.V. Ketkar in particular through the late Balukaka Kanitkar conveyed the information to the late Mr. B.G. Kher.

26.8 The Commission has held that the scope of the inquiry is wide enough to cover any knowledge of or information relating to danger or of threat to the life of Mahatma Gandhi or of a plan or intention to assassinate him, possessed by the persons referred to in the

first term of reference. Therefore that information or knowledge if conveyed to any of the authorities of the Government of India or of the Government of Bombay would fall under this term of reference.

26.9 The term of reference (b) covers two sets of authorities (1) authorities of the Government of Bombay and (2) authorities of the Government of India. In the opinion of the Commission the word "authorities" there refer to subordinate authorities as the word is used in S. 49 of the Government of India Act and would include the Police, the civil authorities i.e. the District Magistrates or other Magistrates or Secretariats of the two respective Governments, and would also include the Council of Ministers, collectively and the Ministers individually.

Government of Bombay

26.10 The Commission in the previous chapters has discussed at length the knowledge of individual officers at Poona, at Ahmednagar and in Bombay.

26.11 Poona: In the chapter dealing with prior knowledge in Bombay the Commission has discussed the state of knowledge of all the Police officers from the Inspector General of Police down to Inspectors of Police. Evidence there discussed shows that none of these officers had any knowledge either of Nathuram's conspiracy to murder Mahatma Gandhi or even of danger or threat to the life of the Mahatma. Their evidence without exception shows that the atmosphere in Poona was tense and there was violence in the writings of Hindu Mahasabha newspapers. There was an intense anti-Muslim feeling and activity, arms were being collected, bombs were thrown but according to these Police officials they were all directed against the Muslims or were to be used for the purpose of meeting the Razakar menace or to help the Hindus in Hyderabad State in their fight against the Razakars and Nizam's misgovernment.

26.12 There is also evidence to show that the Hindu Mahasabha and people of their way of thinking who were very vocal and vociferous in Poona were highly agitated on account of the Partition, on account of the pro-Moslem policy of and the appeasement of Moslems by the Congress, of which they considered that Mahatma Gandhi's was the main responsibility. According to those witnesses there were feelings against the Congress and against Gandhiism but there was nothing to show that those feelings were directed against the person of Mahatma Gandhi or they were likely to be directed to causing bodily injury to the Mahatma still less his death. None of the witnesses knew anything in regard to the activities of Nathuram Godse, Apte or Badge excepting in connection with the anti-Moslem, anti-Razakar and anti-Hyderabad movement. No doubt there is evidence that occasionally speeches were made which were capable of being interpreted as direct incitement to violence, towards Congress leaders and one such speech was by Dr. Parchure of Gwalior who said that Gandhi and Nehru will soon reap the fruits of their sins. There was another speech, that of Mr. G.V. Ketkar, where he said that their enemy No. 1 was false nationalism-Gandhiism.

26.13 There is also documentary evidence to show that the activities of Apte, Karkare of Ahmednagar and Badge were such that all three of them were classed as potentially dangerous. Nathuram Godse was termed a Savarkarite with influence in the Hindu Rashtra Dal but it is not indicated as to whether the potentially dangerous activities of these people were directed against the Moslems, the Congress, Gandhism or against Mahatma Gandhi personally. But the list of Hindu Mahasabha leaders and their activities compiled by the Provincial C.I.D. and contained in Ex. 114 and Ex. 114A do show that Apte, Karkare and Badge were being accused of or prosecuted for being connected with bomb throwing or of dealing in illicit arms and were persons who were not exactly innocuous or harmless and did form one group from which danger could be expected but the question was towards whom?

26.14 It is surprising that prominent Poona citizens, like Mr. G.V. Ketkar, Balukaka Kanitkar, Mr. S.R. Bhagwat and Mr. R.K. Khadilkar who have deposed to having previous knowledge of danger to Mahatma's life even if they did not have any knowledge of the conspiracy of Nathuram Godse failed to warn any of the authorities in Poona itself. The same applies to Mr. Keshavrao. Jedhe, M.C.A., who knew of the danger from Nathuram Godse and yet did not even inform his host Mr. N.V. Gadgil. Balukaka Kanitkar claimed to have written to Mr. B.G. Kher, the Premier, who in turn, according to Balukaka's letter Ex. 11, informed Sardar Patel. Mr. Morarji Desai has deposed that Mr. Kher did mention to him about Balukaka's letter which taken along with the talks he had with Balukaka seemed to show that the atmosphere was tense and Mahatma Gandhi's life was in danger which other people were also saying and which they, the Government, also felt due to the atmosphere which the refugees had created. But the source of danger was not disclosed in the letter, no names were given and the information was vague. He also said that there were rumours of a conspiracy but no one knew who were in it. Godse and Apte were never mentioned. If they had been he would have taken prompt action. But it is unfortunate that an important matter like danger to Mahatma Gandhi's life remained buried in the bosom of these gentlemen and non official witnesses who hesitated to inform any authority in Poona and even in Bombay except that only a vague kind of information was passed on to Mr. B.G. Kher and to Mr. Morarji Desai. It has not been proved to have been passed on to the C.I.D., for investigation not even by Ministers so much so that the Poona Police officers denied the very existence of this danger. And thus S. 44 of the Code of Criminal Procedure remained a dead letter in the sense that the salutary duty imposed by that section was wholly ignored.

26.15 It is true that the information was vague, it may even be termed nebulous and uncertain and foggy and no names were mentioned or it did not disclose from whom the danger was apprehended. Balukaka Kanitkar seems to have said that the life of top Congress leaders was in danger which would include Mahatma Gandhi also but there were no names. It was not stated where the danger was likely from nor who were going to kill Mahatma Gandhi and other top Congress leaders. One may draw an inference from what Mr. K.M. Munshi and Mr. N.M. Kamte have deposed: the former that there was a movement in Poona antagonistic to Mahatma Gandhi which may compendiously be called the

Kesari group of which the leadership had been taken over by V.D. Savarkar; according to the latter anti-Gandhi feelings existed amongst Chitpawan Brahmins of Poona and as a matter of fact leaders of thought in Poona were Brahmins. And Mr. Rajagopalachari in his book 'Mahatma Gandhi's Teachings and Philosophy' pp. 22-24 has also given "a more ancient grudge" as a reason for the murder. The grudge being of the Kesari group. But that also is very vague as it only mentions a class but not individuals. Was the danger to come from the whole of the Kesari group or was it from individuals in that group? As things turned out, the persons who were responsible for the conspiracy to murder and the murderers of Mahatma Gandhi were Savarkarites belonging to the Hindu Rashtra Dal who were blind followers of Savarkar whom they treated as the Fuhrer. And there is no evidence to show that these conspirators also belonged to the Kesari group excepting that they were Savarkarites which cannot be said to be interchangeable terms. It may be that Godse and Apte belonged to the class of people described by Mr. Kamte, but Badge was only a *Gandoli*, or *Gondri*, a bard, and Karkare was from Ahmednagar, no doubt, an associate of Apte but a Karhade Brahmin.

26.16 The knowledge of this danger which, it is stated, was conveyed to Mr. B.G. Kher and through him to Mr. Morarji Desai could only be of the information which Balukaka Kanitkar himself possessed and that has been discussed at great length in previous chapters—of G.V. Ketkar and Balukaka Kanitkar under Issue (a). Briefly stated there is no proof of what Balukaka Kanitkar wrote in his letter to Mr. B.G. Kher. The letter is not on the Secretariat file; Balukaka kept no copy; Mr. G.V. Ketkar, who has referred to it in his newspaper article in November 1949, Ex. 17A, and even in his review petition of December 1964, said that Balukaka Kanitkar warned against the danger to the lives of top ranking Congress leaders. Even later he mentioned just the leaders without particularising Mahatma Gandhi. And Mr. Morarji Desai has, on oath, stated that no names were mentioned to him by Mr. B.G. Kher, and that the information was vague, although he mentioned that the atmosphere in Poona was tense and Mahatma Gandhi's life was in danger. Even in his talks with Mr. Morarji Desai Balukaka Kanitkar does not seem to have given any names. There is no evidence indicative of the persons or class of persons who were going to be the killers.

26.17 In his Police statement Ex. 81, Balukaka Kanitkar specified that he heard Nathuram Godse make a speech in which he advocated a resort to revolutionary methods and that it was a gloss of some R.S.S. volunteers whose names Balukaka Kanitkar did not know, who named Gandhiji and Nehru as thorns in the establishment of Hindu Raj. Later in Ex. 11, a kind of a mercy petition to H.E. the Governor General, Mr. Rajagopalachari, Balukaka Kanitkar added something to his statement and said that he had already told Mr. B.G. Kher that these people which perhaps means Godse and Apte were going to commit murders of top ranking Congress leaders including Gandhiji, Jawaharlal, Sardar Patel and other toll poppies. This statement is also general. Balukaka's successive statements show an improvement one on the other and there is a little bit of an addition in

each of them. The first letter is not before the Commission but there were no names as far as it can now be gathered. In the second one Ex. 81, Godse's name is mentioned but not as a potential killer and in the third Ex. 11 both Apte and Godse are referred to. And the Purushartha Ex. 166 is a wholly misleading document because of its intrinsic inconsistencies. On this evidence Commission is unable to hold that any names were given in his first letter. The inference that can fairly be drawn from the documentary evidence and other evidence is that the late Mr. B.G. Kher, was informed by Balukaka Kanitkar that there was danger to the life of top Congress leaders without particularising the leaders and without mentioning as to where the danger was from. There is no evidence from which it can be concluded that Balukaka had stated that the assault would come from Godse and Apte and their group. Both Balukaka Kanitkar and Mr. B.G. Kher are dead, so the evidence before the Commission consists of documents Ex. 81 and Ex. 11 and the sworn testimony of Mr. Morarji Desai which Commission finds no reason to reject or not rely upon. Mr. Morarji Desai has also stated that there were rumours of a conspiracy but not who were in it.

26.18 Even this information vague, nebulous, uncertain and even misty as it was, was not conveyed to any police officer or to the members of the Home Secretariat to get it vetted and its veracity tested by careful investigation which, in the opinion of the Commission, should have been done.

26.19 No information was given to the officers of Bombay City Police either of the danger to the life of Mahatma Gandhi or of the conspiracy, not even of the contents of Ex. 114, i.e., the document where the activities of the leaders of the Hindu Mahasabha and of Savarkarites at Poona were set out, nor is there any other evidence to show that in the city of Bombay the activities of these Savarkarites were known. Mr. Nagarvala, Deputy Commissioner of Police has deposed that although the Hindu Mahasabha believed in political assassination, there was no talk of murders to his knowledge. Police knew about Savarkar and his previous history but he was not watched as he was a political leader of importance and Government had to agree before a watch could be put on him.

26.20 From this evidence the conclusion which the Commission has reached is that as far as permanent Civil servants were concerned, whether in the Police or in the civil secretariat or in the civil administration of the districts, no information as to the danger to the life of Mahatma Gandhi or other top Congress leaders was conveyed to them, still less of the conspiracy of Nathuram Godse. The C.I.D. including the District C.I.D. of Poona say that they knew that activities of the Hindu Mahasabha including that of the Savarkarites and of the Rashtra Dal were directed against the Mohammedans; occasionally there was an anti-Congress, anti-Gandhi and anti-Nehru speech, the importance of which has to be judged in the light of surrounding circumstances. There was also the Hindu Mahasabha press which was violent in tone against the Congress leaders for their pro-Muslimism. The Congress had been accused by the Hindu Mahasabha, both by extremists and moderates, of having adopted a policy of appeasement of Muslims which had led to the Partition.

The atrocities which had been committed against the Hindus and Sikhs, who were driven out of the western wing of Pakistan had exasperated the Poona Hindu Sabhaites, militants particularly, still more and the constant carping criticism of the Hindu Mahasabha by socialists and other Congress leaders made them angrier. The top-ranking police officers could not discern from the activities of the Hindu Mahasabha and the R.S.S. and the Rashtra Dal anything which was indicative of danger to the life of Mahatma Gandhi still less a conspiracy of Nathuram Godse to murder Mahatma Gandhi.

26.21 Commission therefore holds that the permanent Civil servants and the Police could not discern any danger to the life of Mahatma Gandhi from whatever was happening in Bombay Province and thus had no previous knowledge of the danger or of any plan or intention to kill him or of the conspiracy of Nathuram Godse; that some non-official gentlemen, residents of Poona, did know of the tenseness of atmosphere and of danger to the life of Mahatma Gandhi and other Congress leaders, but the information they had was rather vague and whatever was conveyed to the authorities e.g. Mr. B.G. Kher, could not have been of any higher quality.

26.22 *A fortiori* the information given by Mr. B.G. Kher to Sardar Patel if he did give such information or to Mr. Morarji Desai could not have been of a different quality i.e. it was vague without mention of names, it was nebulous and uncertain. But even that was not got tested by the Police C.I.D. nor inquiries made to find out where the danger was from.

26.23 The evidence in regard to the activities of the Hindu Mahasabha led by V.R. Karkare and by Madanlal has been set out in detail in the chapter dealing with Ahmednagar. The police evidence there shows that the activities of the Hindu Mahasabha and particularly of Karkare and Madanlal consisted in taking out processions against Muslims and there is evidence that propaganda was carried on against Muslims and also against the Congress. A meeting of the socialists to be addressed by Raosaheb Patwardhan was broken up by Madanlal; bombs were thrown in different localities and arms were found in the possession of S.V. Ketkar, who was the manager or an employee of Karkare's hotel.

26.24 The Commission has examined practically all the necessary police officers from the D.S.P. down to the Sub-Inspectors and they have all deposed about the activities of Karkare and Madanlal and also of the Hindu Mahasabha. There is also evidence to show that Karkare knew Apte well and Apte had helped Karkare in setting up his business. Even Sub Inspector L.N. Joshi before joining the police had done so. There is also evidence that Godse was known to these people. But in spite of that, there is no evidence to show that there was any conspiracy to murder Mahatma Gandhi or any plans or intention to do so or any threat of danger to the life of Mahatma Gandhi indicated by the evidence of witnesses from Ahmednagar. No doubt, Ex. 114A which was furnished by the Poona Provincial C.I.D. to Government did contain *inter alia* the name of Karkare as potentially dangerous, dealing in arms and a Savarkarite, but beyond that there is nothing to show that there was any activity in Ahmednagar

itself which threatened the life of Mahatma Gandhi. Of course, the evidence of police witnesses and others indicates a great deal of anti-Muslim and anti-Razakars activity and also of some propaganda against the Congress but it does not go beyond that and it does not show that any of the police officers or the District Magistrate had any previous knowledge about the threat to the life of Mahatma Gandhi or intention or plan or conspiracy to murder. The Commission would hold accordingly.

26.25 After the bomb explosion at Birla House in Delhi and after the arrest of Madanlal, Prof. J. C. Jain, witness 27, who had been taking interest in Madanlal had thus gained his confidence, gave certain information to Mr. B.G. Kher and to Mr. Morarji Desai. The information was that before going to Delhi for the purposes of carrying out the object of the conspiracy Madanlal had told him of his association with Karkare and his meeting Savarkar and that there was a conspiracy to murder Mahatma Gandhi. Prof. Jain was sceptical about the information and his friends Angad Singh and Prof. Yagnik to whom he disclosed it shared his scepticism and considered Madanlal to be a braggart. But it may be added that Prof. Jain tried to see Mr. Jayaprakash Narayan to give him the information but failed to do so because Mr. Jayaprakash Narayan was too busy. He and his friend Angad Singh conveyed this information to Mr. Ashok Mehta and Mr. Moin-ud-Din Harris but they have no recollection of this matter. And thus again vital information and very definite one at that remained uncommunicated to the police or even to top ranking political leaders.

26.26 After the bomb was thrown Prof. Jain sought not the Police, not the Presidency Magistracy, but first Sardar Patel, then his son, then Mr. S.K. Patil but being unsuccessful in that got Premier B.G. Kher, and through him Mr. Morarji Desai and gave him all that Madanlal had told him. This has been discussed in Chapter dealing with the Prior Knowledge at Bombay, Chapter XXI-B, and also partly in Chapter XVII "Bombay". It is not necessary to discuss it again here, but it is a sad commentary of missed opportunities and is demonstrative of the then distrust of the police and peoples reluctance of approaching it.

Government of India—

26.27 Commission will next deal with the state of knowledge of the authorities of the Government of India. It has already dealt with the information, which was conveyed by Balukaka Kanitkar to the late Mr. B.G. Kher the Premier of Bombay. There is no direct evidence showing that it was repeated to Sardar Patel or to his personal Secretariat or to any one of the Secretaries in the Home Office. In Ex. 11, Balukaka Kanitkar had said that Mr. B.G. Kher had told him that he had received the letter sent by Balukaka to him at Delhi and he showed that letter to Sardar Patel and thus conveyed that information to him. Sardar Patel being dead, and there being no record of the receipt of this information, the Commission had *ex necessitate* to inquire these facts from his Private Secretary, Mr. V. Shankar and the Secretary of the Ministry of Home Affairs, Mr. R. N. Bannerjee, and from his daughter, Miss Maniben Patel. None of

them has been able to give any positive information on this point. They do not even know the name of Balukaka Kanitkar or of G.V. Ketkar or of S.R. Bhagwat. They all expressed ignorance of the information, which Balukaka Kanitkar in Ex. 11 has mentioned i.e. the information being conveyed to Sardar Patel, but Mr. Morarji Desai has deposed that whatever information Mr. B.G. Kher had received from Balukaka Kanitkar and which Mr. Kher had in turn given to him (Mr. Morarji Desai), was conveyed by him (Mr. Morarji Desai) to Sardar Patel. He added that Sardar Patel already had that information from his own sources.

26.28 All this evidence is lacking in definiteness. It does not show what the information was, where the danger was from and who was planning or intending to kill Mahatma Gandhi and whether it was a single individual or more. From the evidence on this record it cannot be held that the danger was from Godse, Apte, or their group or that it was brought to the notice of Sardar Patel or his Secretariat that Godse and Apte and their associates were going to murder the Mahatma or were intending or planning to kill him or there was a conspiracy in which the principal was N.V. Godse.

26.29 The Commission has dealt at length with the information which Mr. V. Shankar, Mr. Bannerjee and Miss Maniben Patel had. None of them knew about Balukaka's letter or information sent by him. See Chapter XXI-(A).

26.30 The Delhi Police also do not seem to have had any information in regard to Balukaka Kanitkar or the information which he possessed, and which he said that he had got conveyed to Sardar Patel nor did they know anything about Mr. G.V. Ketkar or Mr. S.R. Bhagwat or any of the other persons mentioned above, who claim to have had prior knowledge.

26.31 However, there must have been some information with the Government of India which led to stationing of a small Police force outside Birla House when Gandhiji returned to Delhi in September, 1947; but the size of the Police force does not show that there was any imminent danger or the danger was considered to be serious.

26.32 After the bomb was thrown by Madanlal, there was considerable increase in the number of policemen in uniform at the Birla House and a considerable number of plain clothes policemen were deployed in Birla House though perhaps not in the residential quarters. Their numbers have been given in the sub chapter dealing with security measures at Birla House.

26.33 The evidence before the Commission shows that information was conveyed to Mr. B.G. Kher and Mr. B.G. Kher, being at Delhi at that time, did in his turn inform Sardar Patel, and therefore the information which the authorities in the Government of India received was through him. But the quality of the information could not be of a higher definiteness than what Mr. Kher himself was given and which he disclosed to Mr. Morarji Desai, i.e. there was danger to the Mahatma's life and atmosphere in Poona was tense. But it was vague and no names were mentioned.

26.34 After the bomb was exploded in Birla House and Madanlal had made a statement, a positive threat to the life of the Mahatma by a group of conspirators was clearly indicated. It was clearly a case of conspiracy to murder the Mahatma. The statement of Madanlal showed the existence of a conspiracy in which the participants were "Marathas" as Madanlal called them and the conspiracy was directed against the life of Mahatma Gandhi; at least two names were mentioned by Madanlal, in his first statement of January 20, 1948, i.e. Karkare and Savarkar and proprietor of the Hindu Rashtriya newspaper was disclosed in his statement of the 24th January, Ex. 1. And it was up to the Delhi Police to work out that information by intelligent investigation and to take such measures in regard to the safety of the Mahatma, which the circumstances of the case required.

26.35 If Balukaka Kanitkar had disclosed in his communication the threat from Godse and Apte or either of them then there could be no conceivable reason why the authorities would not have taken precautions against them, because the lives of Ministers were also threatened as shown by Ex. 81 and Ex. 11 and even if they could be lackadaisical in the case of the Mahatma, they could not have been so about themselves.

26.36 Delhi at that time was a Chief Commissioner's Province and a reference to the officers of the Government of India would include the Administration in the Province of Delhi under the Chief Commissioner, that is, the Chief Commissioner, who at that time was Sabibzada Khurshid and the Deputy Commissioner Mr. M.S. Randhawa, both members of the I.C.S. and the latter appeared to the Commission to be an alert officer though during the relevant period, he had to expend a good deal of his time and energy to the law and order situation.

26.37 These are the various authorities which the language used in the terms of reference would comprise.

26.38 There is no evidence to show that either the Chief Commissioner or the Deputy Commissioner had received any information from the persons mentioned in the first term of reference or from any one else, nor is there anything to show that the Delhi Police including the Delhi C.I.D. received any information from these persons. As a matter of fact, there is no evidence to show that the Delhi Police or the Delhi Administration knew anything about Mr. G. V. Ketkar or Balukaka Kanitkar or of Mr. Keshavrao Jedhe or even of Mr. R. K. Khadiilkar. All these persons were strangers to the Delhi Police and to the Delhi Administration and excepting the name of Mr. Jedhe even to the Ministry of Home Affairs.

36.39 With regard to the Minister, Sardar Patel himself, or his personal staff or even the Secretary of the Ministry of Home Affairs, the only person who had any information at all was Sardar Patel himself, the others were as ignorant as the Delhi Police or the Delhi Administration. What Sardar Patel knew, has already been discussed, i.e. Balukaka Kanitkar, in his letter Ex. 11, says that Mr. B.G. Kher had told him that he had shown his letter to Sardar Patel and there is the evidence of Mr. Morarji Desai that in August or September

1947, he had conveyed whatever information he got from Mr. B.G. Kher to Sardar Patel and Sardar Patel already had that information through his own sources. There is no document or official record showing what the information of Balukaka was or what information of Balukaka Kanitkar's had been conveyed to Sardar Patel. Even his daughter Maniben Patel was wholly ignorant about it and there is no mention about it in her diary, Ex. 273, which is a fairly informative document.

26.40 There were interpellations in the Constituent Assembly; questions were put by Mr. Anantasayanam Ayyangar and supplementaries by other hon'ble members. There also Sardar Patel never stated that any information had been given to him by anybody previous to the throwing of the bomb regarding the danger to the life of Mahatma Gandhi still less about the conspiracy to murder Mahatma Gandhi. Mr. Morarji Desai, when similar questions were addressed about the matter in the Bombay Legislative Assembly after the murder, did admit that Government had previous knowledge but there the reference was to Prof. Jain and not to Balukaka Kanitkar. But this admission only remained on the Secretariat files as the questions were withdrawn.

Term of reference (c)

26.41 The third term of reference (c) reads as follows:—

"(c) if so, what action was taken by the Government of Bombay, in particular by the late Bal Gangadhar Kher, and the Government of India and by the officers of said Governments on the basis of the said information."

It is a very wide term and may be divided into the following issues:—

(1) If any one of the persons mentioned in term:

(a) had communicated the information referred to in term (a) to any of the authorities mentioned in term (b), then what action was taken—

(i) by the officers of the Government of Bombay;

(ii) by the Government of Bombay;

(iii) in particular by the late Mr. B.G. Kher.

(2) Similarly if the information as set out in (1) above was given to the officers of the Government of India or to the Government of India what action was taken by them i.e. by the officers or by the ministers.

The Government of Bombay as used in this term of reference must mean the Provincial Government, i.e., the authority or person authorised at the relevant date to administer executive Government in the Province of Bombay. See section 3(47) of the General Clauses Act. Thus, it means the Governor and the Council of Ministers then in office, would necessarily have to be judged in the light of the "Rules of Business". And action, if any, which had to be taken would depend upon the rules of business under s. 59(3) of the 1935 Constitution Act;

and particularisation of Mr. B. G. Kher, would have to be judged in the light of those rules.

26.42 Without going into the legal niceties of interpretation of the "Government of India", the intention of the reference seems to be the Ministers of the Government of India and the officers under the Government of India must be held to comprise the Police, the Delhi Administration, the Directorate of Intelligence Bureau and Civil Secretariat and officers of the Government of India in charge of law and order. This is the interpretation which the Commission has given under the term of reference (b)

26.43 The question comprised within this term of reference cannot be decided in *vacuo*. The conditions prevailing at the time when the events falling within the terms of reference took place must be taken into consideration. It is for this reason that the Commission has set out the three incidents stated to be previous attacks on Mahatma Gandhi's life, which it is alleged, are indicative of continuous ill-will and rancor on the part of a particular specified group. One such incident was in July 1944 at Panchgani; the other was in September 1944 at Sevagram Wardha and the third was an attempt to derail at night the special train in which Mahatma Gandhi was travelling in June 1946 from Kalyan to Poona near a railway station just beyond Karjat. All these incidents were attacks on the life of Mahatma Gandhi at least that is what was alleged; and in two of them, i.e. the Panchgani and the Sevagram incidents, the attackers belonged to the same set which subsequently furnished the conspirators who murdered Mahatma Gandhi, thus showing continuity of danger to the life of the Mahatma from a particular group and continuity of their malevolence culminating in the murder of the Mahatma.

26.44 In the Panchgani incident, there was some evidence that it was an attack on Mahatma Gandhi's life but the Commission has found that it was only a Black Flag demonstration against the Rajaji formula which Gandhiji had accepted. No doubt it was led by N.D. Apte. Another person who is alleged to have participated in the demonstration is now an advocate of the Bombay High Court. But on the evidence it is difficult to hold that it was an attempt on Mahatma's life.

26.45 In the Sevagram incident, although there was evidence of Dr. Sushila Nayyar to show that the leader was Nathuram Godse, the police reports show that he was not there and it was led by a person named L.G. Thatte, who was subsequently interrogated for having knowledge of the conspiracy to murder. From Thatte a knife was recovered and the police promptly arrested the demonstrators then because if it had not done so there was danger of a commotion amongst the people of Wardha and perhaps outside Wardha also.

26.46 In the third incident, Mahatma Gandhi's special train was sought to be derailed at night by keeping boulders across the railway line. Mr. S. Ramakrishnan, Editor of the Bhartiya Vidya Bhavan's "Bhavan Journal", witness No. 100, stated that it was believed to be an attack on Mahatma Gandhi's life by derailing his train. But the police evidence and the accounts given in contemporary newspapers show that it was not meant to be an attack on the life of Mahatma

Gandhi but it was an attempt at robbery by train thieves who mistook the special train to be a goods train. Mahatma's train would ordinarily have been known to every villager and it is unlikely that they would be ignorant of this fact but the police story and story put forward by contemporary newspapers was different and they all said that the would-be attackers were train thieves and wagon breakers and not Mahatma killers.

26.47 In any case all these incidents do show this that there was a set of persons in Poona and round that area who were not very happy with Mahatma Gandhi's policies and were leading processions to protest against what came to be called the "Rajaji Formula" and Mahatma Gandhi's meeting with Mr. M.A. Jinnah. The leaders of both these demonstrators belonged to the Savarkarite school of Poona but it is not shown that their intention then was to make a murderous assault on Mahatma Gandhi though they did protest very strongly against his policies. With regard to the train incident, as it has not been proved beyond reasonable doubt that it had connection with politics, the Commission has not taken it into consideration as an attempt on the Mahatma's life. It is a strange coincidence though that the Kalyan-Poona section of train thieves should have mistaken Mahatma Gandhi's special train as a goods train and an appropriate object of derailment for robbery.

26.48 As has been said above, action cannot be taken in *vacuo* and therefore the Commission has gone into the conditions and the political and communal activities prevailing in Maharashtra part of Bombay, Ahmednagar, Poona, and also in Delhi which were the principal places which have been proved to have had connection with the conspiracy to murder Mahatma Gandhi, as also the threats against his life and the lives of other Congress leaders.

26.49 In Ahmednagar, V.R. Karkare, a prominent Savarkarite and a prominent Hindu Mahasabha worker is shown in Ex. 114-A as potentially dangerous and also an associate of N.D. Apte. He was also a dealer in illicit arms and weapons. Madanlal who threw the bomb at Birla House was his protege and was under his influence and according to one witness, Mr. Angad Singh, he could not have got out of the conspiracy even if he had wanted to, because of the fear of his own life. Therefore, it was necessary to find out and the Commission has collected and examined evidence relating to the happenings in Ahmednagar. That was in order to find out how far the conditions and happenings there were conducive to creating an anti-Gandhi atmosphere and how the prevailing atmosphere there prevented the authorities from discovering anti-Gandhi trends and acts.

26.50 It may at the outset be mentioned that the Ahmednagar Police witnesses have stated that they had a complete record of the activities of V.R. Karkare. They also had a complete record of Madanlal. Both of them had been ordered to be detained but they fled from Ahmednagar and nothing could be done or has been proved to have been done to arrest them. The Commission was told that a warrant of arrest under the Detention Act was not executable outside the particular district where it was issued. Their evidence also shows that in the town of Ahmednagar there was a great deal of violent activity. Noisy processions were taken out led by Madanlal and

Karkare. Bombs were thrown at four places and occasions. Arms and ammunition were found from S. V. Ketkar, the manager or a lesser employee of V.R. Karkare's hotel. There was a great deal of communal activity within the District because of the *razakar* movement in Hyderabad State just across the border. There was also an attack on Raasahab Patwardhan, a prominent socialist worker, by Madanlal which does not seem to have been taken serious notice of by the police and Madanlal bragged about it. The Ahmednagar Police witnesses have also shown that there was some association between Karkare and Apte and also Godse was known to Karkare and visited him with Apte. But unfortunately nobody tried to find out the extent of the association or make use of it after the arrest of Madanlal.

26.51 That was the state of affairs and the type of activities which were being carried on in Ahmednagar but as has been said in the chapter dealing with Ahmednagar, the police officials were not particularly vigilant in regard to these two persons, i.e. Karkare and Madanlal, so much so that although they suspended that Madanlal arrested at Delhi was the same person who was operating in Ahmednagar, they did nothing more than half heartedly and unconvincingly convey their suspicion to the D.S.P., Mr. Rane, and actually made a written report about it on or about 29th January 1948. Of course, they could not anticipate that the assassination would take place so soon. Mr. Rane stated that he had a faint recollection of the factum of suspicion mentioned by his subordinates. He does not seem to have taken this matter seriously or made enquiries to test the validity of the suspicion. The evidence does not show that either the Bombay Police or the Delhi Police made any effort to find out from the District Police of Ahmednagar as to the antecedents and activities of Madanlal or of Karkare or who their associates were. If any efforts had been made, it should have been possible to find out the connection between Karkare and Apte as it was found soon after the murder when Sub-Inspector Balkundi was called by Dy. Superintendent Chaulal of the Provincial C.I.D. and he supplied him with photographs of Karkare as also the information of his being friendly with N.D. Apte amongst many others.

26.52 In connection with the incidents and activities and happenings in Ahmednagar District, Commission has also discussed the question of *razakars* and *razakar* menace because that had been used as a kind of a cloak by the Hindu Mahasabha workers particularly Karkare etc. for their dealing in illicit arms and that cloak and excuse of anti-Muslim and anti-*razakar* objectives were successful in deluding the Police including the D.S.P. of the district. However in Ahmednagar orders for detention of some refugees and of Karkare and Madanlal were passed under the directions of the Bombay Government.

26.53 Similarly, the Commission has collected evidence in regard to what was happening in Poona. In the opinion of the Commission, the happenings in Poona were more serious and therefore more important and that is the reason why a great deal of time and space has been given to the collection and discussion of evidence from Poona. That was the stronghold of the Hindu Mahasabha next only to Delhi. Out of the eight accused against whom the police put up the case of conspiracy to murder Mahatma Gandhi, three principal ones were

from Poona, i.e. Nathuram Godse, N.D. Apte, D.R. Badge; V.R. Karkare was a close associate and V.D. Savarkar was their mentor really their Fuhrer. Dr. Parchure though not belonging to Poona itself was considered second only to Savarkar and was also one of the accused in the conspiracy. All this shows that the brains behind the conspiracy were the Poona people belonging to the Hindu Rashtra Dal group of Savarkarites.

26.54 The conditions in Poona at the time were disturbed and atmosphere surcharged with violence and communal tension; so much so that prohibitory orders had to be promulgated under section 144 Cr. P.C. There was public felicitation of Daji Joshi, who had been convicted of murder of Collector Johnson and Mr. G. V. Ketkar, who claims that he did the forewarning regarding danger to the life of Mahatma Gandhi, presided at the function. There was observance of "Black Day" celebrations as a protest against the partition. One of the speakers there also was Mr. G.V. Ketkar who praised those who had participated in the protest; Ex. 112. The celebrations connected with Independence day were boycotted. There was collection of arms and ammunition. Bombs were thrown; one was from the Public Library in the heart of the town and although there was a confessional statement by the thrower of the bomb, nothing came out of it in spite of Mr. B. G. Kher's directive that the matter should be carefully investigated. Speeches were made in the Tilak Smarak Mandir and Shivaji Mandir, by extremist Hindu Mahasabha leaders. The police was unable to find in those speeches any incitement to violence. But there was one such speech by Dr. Parchure of Gwalior which tended to show incitement to violence but it could not be put into court for want of a Hindi shorthand writer. The speech was in Hindi and the reporter only knew Marathi shorthand.

26.55 Besides these activities there were writings in the Hindu Mahasabha press particularly the *Agrani* or the *Hindu Rashtra* and also the *Trikal*. In the case of the former the security already deposited was confiscated and a heavier security was demanded but cleverly enough the proprietors of the newspaper stopped the publication of the *Agrani* and in spite of the protests of the police were allowed to start almost immediately the *Hindu Rashtra* which if anything was more violent and fire eating than the *Agrani* in its writing against the Congress and Congress leaders though the language was carefully shrouded. The police witnesses have deposed that all these activities were directed against the Muslims and might be considered anti-Muslim activities and whatever there was against Mahatma Gandhi was what they called anti-Gandhi-ism, i.e. propaganda against Gandhian philosophy and not Mahatma Gandhi's person. But here again police witnesses were successfully deluded by an anti-Muslim and anti-*razakar* smoke-screen.

26.56 According to Mr. Morarji Desai whenever there was any objectionable matter in the newspapers action was taken against them under the Press Emergency Powers Act. Many Hindu Mahasabha workers were detained. But as far as the Commission has been able to see the tone of the Press remained unchanged and the exercise of preventive detention seems to have borne no fruit.

26.57 Some prominent Hyderabad State workers were residing in Poona. They were getting a great deal of help in arms and ammunition from the Hindu Mahasabha and the socialists. In this manner, they were collecting arms and one such source of supply of arms appears to have been Badge and whenever any action was taken under the Arms Act these worthy gentlemen interceded saying that the collection of arms was to help their movement, i.e. in the matter of Khanolkar brothers.

26.58 Thus, the extremist elements in the Hindu Mahasabha carried on violent activities under the guise of anti-Muslimism but as Mr. Morarji Desai has deposed they also wanted to embarrass the Congress Government. This produced anti-Congress and anti-Congress leader complex in Poona particularly.

26.59 Mr. G. V. Ketkar, witness No. 1, deposed that he heard a speech made by Nathuram Godse which was indicative of a threat to the life of Mahatma Gandhi; that he got Balukaka Kanitkar to write a letter to Mr. B. G. Kher, warning him of the danger to the life of Mahatma Gandhi; that Nathuram Godse admitted to him when he came to his (Ketkar's) place sometime in October 1947 that he was going to murder Mahatma Gandhi; and that soon after the bomb was thrown, he met Badge who disclosed to him that Godse, Apte, Badge were in the conspiracy and were present when the bomb was thrown and that they would soon be returning to Delhi to achieve their objective.

26.60 Mr. Ketkar claims that in July 1947 he got a letter written on account of the speech made by Nathuram Godse in which he indicated a threat to the life of Mahatma Gandhi, but peculiarly enough he did nothing when in October 1947 he had positive admission of Nathuram Godse that he was going to murder the Mahatma nor when soon after the bomb incident Badge disclosed to him the names of some of the conspirators and that they were going to return to Delhi to murder Mahatma Gandhi; his explanation for not doing so is an exercise in fatuity.

26.61 Besides, Mr. Ketkar, Mr. S. R. Bhagwat, witness 69 has claimed that he knew that the atmosphere in Poona was tense and he had heard Balukaka Kanitkar making speeches about the danger to the life of top Congress leaders. The late Mr. Keshavrao Jedhe M.C.A. had also some knowledge about the danger to the life of Mahatma Gandhi and he even gave some kind of information to Mr. N. V. Gadgil who was then a Minister in the Central Government. But unfortunately all these gentlemen avoided giving any information to the local authorities neither to the District Magistrate nor to the District Police nor even to the Provincial Government if they were chary of the local authorities. But Mr. Bhagwat claims to have written to the Bombay Premier and Sardar Patel and says that no one believed him.

26.62 The claim which Mr. G. V. Ketkar has made to the letter which Balukaka Kanitkar wrote, has been discussed separately in the chapter dealing with the first term of reference under the heading 'G. V. Ketkar and Kanitkar'. Commission has found there that Mr. G. V. Ketkar did not give any information or cause any information to be given to Mr. B. G. Kher. It has also found on the

evidence of the documents produced before it that Balukaka Kanitkar did write to Mr. B. G. Kher but it is not clear what he wrote and no one knows where that letter is. Mr. Morarji Desai has deposed that the information was vague and no names were given. The information seems to have been nebulous, vague and hazy. Mr. Morarji Desai also stated: (i) that the letter showed that atmosphere in Poona was tense and Mahatma Gandhi's life was in danger without specifying who the danger was from; and (ii) that there were rumours of a conspiracy at the time of the fast which no one else has deposed to.

26.63 Whatever the information—vague, nebulous or hazy—was not passed on to the Police to be checked, verified and vetted nor was this letter placed on the Secretariat files as it should have been in a matter of such great importance, unless the letter gave uncertain vague and cloudy generalities. It appears from the evidence of Mr. Morarji Desai that when information was received in regard to the felicitations to Daji Joshi, the information received from Balukaka Kanitkar was also considered at a Secretariat meeting at which Mr. B. G. Kher, Mr. Morarji Desai and the Home Secretary, Mr. V. T. Dehejia were present, the Commission has in the chapter dealing with Poona discussed what action was taken thereupon.

26.64 The Bombay Government according to the evidence of Mr. Morarji Desai took action against erring newspapers in Poona, under the Press (Emergency Powers) Act and also ordered the detention of many Hindu Mahasabha members. Although action was taken against the *Agrani*, and the *Kal* and the *Trikal*, there is nothing to show that any action was or could be taken against Godse personally. There is no evidence showing violent activities of Godse or of his intention to murder the Mahatma. Apte and Badge were potentially dangerous, the latter was prosecuted under the Arms Act but the former escaped without any action being taken because the confessional statement of the co-accused was retracted. But even without the retraction, the confession was of no value against a co-accused if it was any evidence at all. The fact remains that whatever the activities of this group of Savarkarites, they were either considered not very serious or were so veiled that the police could not take action.

26.65 Mr. Khadilkar who then was one of the leaders of the Workers and Peasants Party about which Dy. Supt. Angarkar was not very complimentary, and "a protestant against the Congress" has also said that the atmosphere in Poona was tense. The Hindu Mahasabha Press was indulging in incitement to violence. There were rumours of danger to the life of Mahatma Gandhi. It was even being talked about in private conversations. But even he did not convey this information to any authority and has given three reasons for not doing so:—

- (i) that the police knew about it as Inspector Angarkar was "with us" that is, he knew about it and he thought that the matter would be reported to the authorities;
- (ii) Balukaka Kanitkar had already written about the danger but that was in July 1947; and
- (iii) as Mr. Khadilkar was himself a protestant against the Congress, he was reluctant to give the information to the

authorities or to the Ministers, because no body would have believed him. But he added that if the information had been definite he would have gone to Bombay to give the information.

26.66 Commission has also discussed the evidence of Mr. K. M. Munshi, witness No. 82, that there was a political school of thought in Poona against Mahatma Gandhi. This group was led by Savarkar, who had believed in violence from the beginning of his political career. This group was comprised amongst others of a number of young men highly patriotic devoted to the country, prepared to make any sacrifice but antagonistic to Mahatma Gandhi. Mr. Raja-gopalachari in his book "Gandhiji's Teaching and Philosophy" at page 22 has said "assassination may be due to the payment of 55 crores, or it may not be that, but the result of more ancient grudge", showing thereby that this group had not been able to reconcile itself to Gandhism what to say of being able to appreciate the Gandhian philosophy, and the leadership of Mahatma Gandhi and were consequently bitterly opposed to him.

26.67 This group according to the evidence of Mr. N.M. Kamte the Inspector General of Police of Bombay, was a group of *Chitpavan* Brahmins who were the leaders of thought amongst the Hindus of Poona. They were extremely antagonistic to Gandhiji. Whether the group as a whole was violently anti-Gandhi has not been proved. It would be too sweeping an accusation. But there is no doubt that there were some among them who could not bear Mahatma Gandhi's philosophy and could not see eye to eye with him. They wanted Muslims to go away to Pakistan, wanted Hindu Raj or Hindu Rashtira and therefore they were dead against Gandhiji. They ascribed Partition of India to his policy of appeasement of Muslims. They were opposed to his fast for the giving of 55 crores to Pakistan. They were also against his policy qua Muslims of Delhi and his inactivity in regard to the sufferings of the Hindu and Sikh refugees who had come from Pakistan and this had made them angrier still; and his removal from the scene was their only antidote.

26.68 According to Gopal Godse, witness No. 33, the giving of rupees 55 crores was "the last straw on the camel's back", and after that Nathuram Godse had made up his mind that unless Mahatma Gandhi was removed from political scene of India, he would do incalculable harm to the Hindus of India and would barter away the rights of the Hindus for placating the Muslims. It was this which led to the formation of this conspiracy resulting in the murder of Mahatma Gandhi.

26.69 The evidence of police officers shows that the violence of the Hindu Mahasabha was directed against the Muslims and was communal in nature and that whatever was directed against the Congress or what was anti-Gandhi was meant to be against the pro-Muslim policies of the Congress or of Mahatma Gandhi. And all the incidents which took place were directed against the Muslims. Not one official witness has said that he had any knowledge either from the speeches made or from the articles published or from the acts done by the various groups of persons in Poona which could lead the police to the conclusion that there was danger to the life

of Mahatma Gandhi. But even if that was so one would have expected the police to carefully watch the leaders of this anti-Muslim activity; if for no other reason, at least for curbing their communal frenzy; unless for some cogent reason they could not do it but the Commission cannot think of or accept any such reason.

26.70 The evidence before the Commission indicating danger to Gandhiji is of non-official witnesses and they also excepting one do not particularise danger to the life of Mahatma Gandhi. Their evidence shows danger to the life of top ranking Congress leaders and not merely to the life of Mahatma Gandhi. Mahatma Gandhi was considered responsible for every step which was taken by the Congress including the Partition and other things which followed thereafter. But there was no particularisation of Mahatma Gandhi.

26.71 The police officers as they evidence showed, treated the collection of arms, throwing of bombs, as part of the anti-Muslim activities, and according to them, whatever was said or done against the Congress was because of its pro-Muslim policy. Evidence taken as a whole whether of civil officers or of the police officers did not indicate that the Savarkarites including Godse, Apte and Badge were so violently inclined against Mahatma Gandhi that they were going to murder him. The other non-official witnesses were not precise. They said that the lives of the Congress leaders were in jeopardy without mentioning who the danger was from. With the exception of Mr. G. V. Ketkar, no Poona witness has deposed to danger from Godse, Apte or even Badge.

26.72 As has been said before, whatever the information, good, bad or in-different, whether it was vague or nebulous, hazy or misty, was not passed on to the police for being vetted and for appropriate action which, in the opinion of the Commission, should have been done. But the Commission is very doubtful about the result of this vetting and it would be conjectural to expect any tangible result from this investigation, considering the result of investigation after the definite information given by Professor Jain or by Madanlal. Mr. Morarji Desai admitted that the intelligence was rather poor and continues to be so.

26.73 The action taken in Poona has been discussed in the chapter dealing with "Conditions in Poona". Under the orders of the Bombay Government, the District Magistrate and the District Superintendent of Police were alerted against the celebration of Black Day Celebrations, against the consequences of felicitations on Daji Joshi's release, against the attempt of Hindu Mahasabha to import Sikh refugees to incite the people by relating their tales of misery and against the boycott of the Hindu Mahasabha of the Independence Day celebrations. The Bombay Government also ordered the compiling of a list of the leading workers of the Hindu Mahasabha and R.S.S. which was done. Ex. 114 was the list of Poona and Ex. 144-A of Ahmednagar. The Government also ordered special reports on their activities which were supplied for some time but were discontinued later under the orders of the Government itself on the advice of Mr. U. H. Rana, D.I.G., C.I.D., which in the opinion of the Commission, was a mistake as the watch which otherwise would have been kept was thereby stopped. Whether the activity

was exclusively anti-Muslim or partly anti-Muslim and partly anti-Congress or anti-Congress leaders including the Mahatma, a watch should have been kept on the explosive elements and whether it would have borne fruit or not should have been left in the lap of unpredictable future.

26.74 The speeches of the Hindu Sabha leaders were reported but they do not show that any violence against the Congress was preached therein. Either the speakers were careful or the reporters were not so diligent. According to the police reports, the speeches were anti-Muslim and not anti-Congress. The Poona press, the Hindu Mahasabha section of it, was preaching ostensibly anti-Muslim violence but the Congress leaders also were not immune particularly in the columns of the *Agrani* which was particularly venomous. Securities were demanded from the *Agrani* and the *Kal* and *Trikal* and the *Hindu Rashtra*. In the case of two of them they were confiscated but on the Independence Day they were refunded as a gesture of goodwill. Unfortunately, neither the confiscation nor the refund had any effect on the hymn of hate of which the extracts from the *Agrani* cited in the previous chapters are glaring instances and which even a newly freed nation could ill-afford to endure in spite of slogans of liberty of thought and action.

26.74-A The atmosphere was tense and violence was in the air and rumours of Mahatma Gandhi's life being in danger were afloat. But this was within the knowledge of only some non-official gentlemen who were chary of informing the local authorities and the information given to the Ministers even was vague, uncertain and enigmatic. No action could have been taken on the un conveyed information with these gentlemen; nor has anything effective been shown to have been done on what was conveyed by Balukaka Kanitkar to Mr. B. G. Kher which also, according to Mr. Morarji Desai, was vague and without any names or showing where the danger was from. But even that information was not passed on to the C.I.D. as should have been done for the purposes of inquiry by them.

26.74-B In cases of collection of illicit arms and possession of arms whatever action was sought to be taken was countermanded as they were ostensibly being collected for use against the razakars. However, orders had been passed under S. 144 Cr. P.C. regarding arms but it is not shown how efficacious they were.

26.74-C There is nothing to show as to what action was taken about bomb throwing but in one case—of City Library—action taken was feeble as in spite of a confession, the case did not proceed. No watch was kept on the activities of those who were indulging in violent anti-Muslim propaganda; at least, none has been proved. It is surprising that no preventive action seems to have been taken against the confessed bomb-throwers.

26.75 The next place the conditions of which have to be taken into consideration is the City of Bombay itself. According to Mr. J. D. Nagarkar, Deputy Commissioner of Police, when he took over his office on August 1, 1947, there was no violent political activity in Bombay but there was communal tension due to influx of refugees, arms and ammunition were left by the British Army with certain

communities which were freely used in the communal riots, transmitters left by the Royal Air Force were being used for transmission of news to Pakistan. Mr. Nagarkar stated that Hindu Mahasabha did believe in political assassination as a means of achieving political objective but at that time there was no political activity of the Hindu Mahasabha. The police knew about Savarkar and his previous history but no "watch" was kept on him at his residence because for leaders of his status, Government's permission had to be obtained or given for watching them. Savarkar himself was not listed but a kind of watch was kept on him in the sense that whenever he went out of Bombay, plainclothes policemen stationed at the railway station could find out where he was going and informed the headquarters. In other words, tail was not put on him but the police always knew whether he was in Bombay or had gone out of Bombay and where.

26.76 There is also evidence to show that there was a group of persons mostly Punjabis who had joined together with the object of turning out Muslims and forcing them to go to Pakistan. Amongst them were Avtar Singh of Sher-i-Punjab Hotel who had been detained, Balraj Mehta, Somnath Kapur, one Chavan who was also under detention. They had under them a number of other Punjabis and followers of Savarkar and members of the R.S.S. They had an easy access to military arms and ammunition and had the support and backing of disgruntled rich Punjabis. There was one other in this group, N. V. Limaye, who was also arrested and detained in connection with bomb outrages in Greater Bombay. Thus, there was an organisation which was subsequently suspected by Mr. Nagarkar of being involved in the bomb outrage on Mahatma Gandhi, but their communal activities had come to the notice of the Bombay Special Branch earlier and some of them were detained and activities of others were being watched. Thus, in Bombay also there was an organisation which was anti-Muslim whose object was to oust the Muslims; and they had collected weapons of all sorts including bombs so much so that even ex-Col. Mohan Singh of the I. N. A. was suspected though wrongly of being in it and that was at the bidding of Master Tara Singh, the well known Akali Leader. But it has not been proved that this group had anything to do with the Delhi bomb or anti-Gandhi propaganda much less with attempt to murder him.

26.77 As far as the Police reports are concerned, and as far as the evidence led before the Commission is concerned, there was no indication before the bomb at Birla House that there was a school of thought in Bombay which was out to cause injury to Mahatma Gandhi much less murder him. This does not mean that the police was not aware of V. D. Savarkar's activities but as Mr. Nagarkar has said the Savarkarites were not operating in the City of Bombay and not one of the accused persons in the Gandhi Murder Case was known to the City of Bombay Police or was operating in any way within the City of Bombay. As a matter of fact, the evidence led in the Gandhi Murder Case and the evidence before the Commission shows that the important acts done by the conspirators within the City of Bombay were that Karkare and Madanlal met Savarkar before they went to Delhi for the purpose of throwing the bomb and Apte and Godse also had an interview with Savarkar before

they went to Delhi for the same purpose. It is controversial whether they also had an interview with Savarkar on the eve of their departure to Delhi for the purpose of committing the murder. There is also evidence that this group was attempting to get a revolver from Dikshitji Maharaj.

26.78 One should not ignore the fact that the conspirators on their return from Delhi after the bomb incident came to Thana and were meeting at the house of G. M. Joshi where, it appears, final plans were made as to how the object of the conspiracy, i.e., murder, should be achieved. Thana was technically not within the City of Bombay; even now it is not; but it is so close to Bombay and within such easy reach that excepting for the technicalities one could not say that it is not Bombay itself.

26.79 Two of the conspirators—Apte and Godse—on their return from Delhi on the 23rd January did stay in Bombay hotels under assumed names till the 27th when they left for Delhi, but there is no evidence that the police or any person in authority knew of their presence in Bombay or could have known about their presence. As a matter of fact, their identity or their connection with the bomb thrown at Delhi was disclosed only after the murder. The Commission is, for the moment, ignoring the disputed evidence in regard to the visit of Delhi Police officers and Ex. 5-A.

26.80 All this has been discussed in various chapters dealing with the previous knowledge of the authorities in Bombay, the investigation followed in Bombay, and in the discussion and analysis of the evidence of Mr. J. D. Nagarkar and of Mr. Morarji Desai, and of Mr. J. S. Bharucha.

26.81 Thus the evidence discloses that the police and permanent officials in Bombay City knew precious little about the danger to the life of Mahatma Gandhi. As stated already, the activities of Hindu Mahasabha group and of the extremist elements like the Savarkarites in Poona and Ahmednagar were blatantly and cleverly directed against the Muslims, the razakars and Hyderabad State. Behind the smoke screen of extreme communal activity, the anti-Congress and anti-Gandhi activity was successfully hidden from the view of the police who seem to have been wholly oblivious of lurking danger to Congress leaders including Gandhiji and who do not seem to have been very successful, if they were active at all, even in regard to controlling communal frenzy.

26.82 It cannot be said that anti-Gandhi faction in Poona and Ahmednagar was so apparent and prominent that a tail could be put on it nor were they so insignificant that they could be ignored. But the difficulty was their successful anonymity. Non-officials like Balukaka Kanitkar and Mr. R. K. Khadilkar could sense danger in Poona, the police should also have been able to do it. It could not afford to ignore it. But was the Poona Police trained and sufficiently large for ferreting out this kind of information? Evidence does not show that they were. Besides, they could easily be deluded by the movement being given an anti-Muslim slant.

26.83 It was under these circumstances and keeping in view these conditions that measures had to be taken by the Government

of Bombay and "particularly" by the late Mr. B. G. Kher, the Premier who perhaps had to act through his Home Minister, Mr. Morarji Desai. The only antecedent knowledge that the Premier and Mr. Morarji Desai had been discussed in the chapter dealing with "Prior Knowledge in Bombay". According to evidence before the Commission, Balukaka Kanitkar had written to Mr. B. G. Kher about the danger to the life of Congress leaders. Mr. Morarji Desai had also talks with Balukaka Kanitkar but as Mr. Morarji Desai has stated the information was vague and no names were given.

26.84 Mr. S. R. Bhagwat's evidence also relating to Poona does not go any further than what Balukaka Kanitkar was saying in his speeches in the town of Poona about the danger to the life of Congress leaders which, if true, must have been common knowledge in Poona; but surprisingly enough the local police did not know about it. Although Mr. Morarji Desai could not remember Mr. S. R. Bhagwat writing to him or talking to him yet he was quite willing to accept the statement of Mr. Bhagwat on the subject. Mr. R. K. Khadilkar who had information in regard to tenseness of atmosphere indicating violence and danger to the Mahatma's life does not profess to having given any information to Mr. Morarji Desai or to anyone else nor did the late Mr. N. V. Gadgil convey any information to Mr. Morarji Desai; as a matter of fact, he himself knew precious little excepting what he could have gathered from an enigmatic and vague statement of the Mr. Keshavrao Jedhe, M.C.A. and what Sardar Patel told him.

26.85 Thus, the Commission has no evidence before it of any definite information having been conveyed to Mr. Morarji Desai excepting of course what he was told by Professor Jinar after the bomb was thrown at Birla House. That is a separate chapter and has been separately dealt with in the chapter "Prior Knowledge in Bombay".

26.86 In the conditions which were prevailing, i.e., intense communal tension in Ahmednagar, Poona and also in certain parts of Bombay the action which the Government of Bombay took was ordering the detention of certain persons, demanding and forfeiting securities from newspapers and action under S. 144 Cr.P.C. As the Commission has held above, the Ministers did not, as should have been done, pass on the information whatever it was in regard to the danger to Mahatma Gandhi and to the lives of other "tall poppies" in the Congress to their police to get it verified after proper investigation and take appropriate action thereafter. But the Commission has its doubts that anything would have come out of that investigation. "The intelligence side" was not well equipped or trained, as Mr. Morarji Desai has himself admitted and the anti-Gandhi and anti-Congress Rashtra Dal members were too clever to work openly or to give up their obfuscation.

26.87 In another chapter the Commission has expressed its opinion that it is not open to a Minister to order the arrest of anyone. All he can do is that if he has any information he can ask the police to go into it and if it portends danger to any citizen, the police will in its discretion, arrest the man from whom danger is apprehended. The Government can use preventive detentions but in regard to them

also there is a limit because the Law Courts fortunately are not very happy at the indiscriminate manner in which preventive action is taken and resort is not had to the ordinary processes of punitive action allowed under the Criminal Procedure Code which is the basis of citizens' liberty. Besides, this each weapon of detention leads to police lethargy and want of acuteness in investigation.

Bombay Inquiry or Investigation

26.68 There then remains "the inquiry" or investigation conducted in Bombay after the information given by Professor Jain to Mr. Morarji Desai which was passed on by him to Mr. Nagarvala. This matter has been discussed at great length in the chapter dealing with Investigation in Bombay, Chapter XXV, where the lacunae have been pointed out.

26.69 Before taking up the discussion of this topic certain facts have to be emphasised. The bomb at Delhi was thrown on 20th January by a Punjabi, Madanlal, who was one non-Maharashtrian in the conspiracy of Maharashtrais, perhaps a subterfuge. Information by Professor Jain to Mr. Morarji Desai was given on 21st January and conveyed to Mr. Nagarvala the same evening and Mr. Nagarvala put his informers and contacts on the job soon thereafter. There were two names mentioned to Mr. Nagarvala—Karkare of Ahmednagar and V. D. Savarkar of Bombay—and he knew of the arrest of Madanlal.

26.90 Two Delhi Police officers met Mr. Nagarvala on the 22nd and gave him some information. Mr. Nagarvala says that they knew nothing except the name of Karkare whom they wanted to arrest. The rest of the information alleged to be conveyed by Delhi Police is a matter of acute controversy.

26.91 Mr. Nagarvala suspected some Punjabis and some Maharashtrais Savarkarites as being involved in the bomb case and in the conspiracy which he thought was one to kidnap Mahatma Gandhi. He persisted in this theory right upto the 30th when Mahatma Gandhi was murdered by Nathuram Godse. His justification for this persistence is the information by his informants and contacts which he had to consider. This matter has been discussed under the heading 'Kidnapping theory'. Thereafter Mr. Nagarvala was appointed as investigating officer but even then it took a fortnight for the case to be investigated and cracked and all the accused were arrested or the names became known to the police.

26.92 The principal actors in the tragic drama were Apte and Godse. Godse was arrested at the spot. Apte and Karkare were both present at the bomb explosion on the 20th. Apte was also present at the murder scene. At the time the bomb was exploded, Badge, his Kistayya, and Gopal Godse were also present. After the bomb incident all the conspirators except Madanlal escaped from Delhi. Apte and Godse reached Bombay on the 23rd via Cawnpur and Allahabad and returned to Delhi on the 27th by Air-India plane. In between Apte went to Poona for a day on the 24th to meet Gopal Godse. Thus, actually they were in Bombay for four days, living in different hotels under assumed names. Gopal Godse and Badge and

his servant went straight to Poona except that Gopal Godse came to Thana to the house of G. M. Joshi for a short time. Karkare returned to Thana on 26th morning and returned to Delhi by the Frontier Mail leaving Central Station on 27th January. Evidence shows that Karkare came to Dadar from Kalyan at 12.30 p.m. on the 27th, purchased a ticket at the Central Station at 3 p.m., left for Delhi at 5.45 p.m. and thus was actually in Greater Bombay for about five hours. Savarkar was all the time in Bombay and before the murder, he could not be arrested or his house searched for fear of setting the whole of the then Maharashtra on fire as deposed to by Mr. Nagarvala nor could the Government have at that time ordered his preventive detention for the same reason. These dates show a well laid out plan and quick action on the part of the conspirators which even the Bombay Police with all its informants and contacts could not discover or counter. That was in spite of the conspirators not been particularly secretive about themselves. Besides, as shown elsewhere, there was utter lack of cooperative effort in the Province of Bombay Police and between the Bombay and Delhi Police. There was, in the latter case, not only lack of rapport but there was mutual recrimination. It may be added that it took about a fortnight to arrest Karkare and Apte after the latter's name came to be known. This shows that apprehension of the accused was not an easy matter but it would be different about taking security measures at Delhi.

26.93 There are two rival contentions in regard to the position of the Bombay Police when acting on the information passed on by Mr. Morarji Desai: one, that it was an investigation under S. 57 of the Bombay City Police Act because part of the conspiracy was entered into within Greater Bombay and the other is that it was merely working out an information in order to find out the correctness of what Professor Jain had told them, and what action, if any, should be taken on that information. Actually, it would make no difference as to which contention is accepted.

26.94 Mr. N. M. Kamte, the Inspector General of Police of Bombay was of the opinion that on the information given to him. Mr. Nagarvala should have recorded a First Information Report and proceeded on to investigate. Mr. Morarji Desai disagreed with that view. The view of Mr. Kamte seems to be correct because a part of the conspiracy was entered into at Bombay as the charge in the murder case shows. The argument of illegality of two first information reports and the likelihood of confusion arising therefrom has been discussed in the chapter "Bombay Investigation" and does not require repetition except to say that there is no illegality in such a procedure and in this particular case, there would have been no confusion as the two investigations were complementary and supplementary to each other and not substitutory.

26.95 Even if the Commission were to proceed on the basis that the Bombay Special Branch were merely working out an information like any C.I.D. of Police similarly informed would have done and that S. 57 of the Bombay City Act did not apply then also the inquiry was not without blemish because the salient points of information about Karkare and Savarkar being involved in the offence were somehow badly blurred during the course of the Bombay

inquiry. The particulars and associates of Karkare were not asked for or obtained from Ahmednagar and the Provincial C.I.D., Poona. The subsequent emergence of the name of Badge was also not made use of by enquiring from Poona. If the information which was obtained from Poona after the murder had been obtained before, it is possible the watch at the railway stations and at the airport and at the house of Savarkar would have been more fruitful. All this has been discussed in the chapter "Bombay Investigation".

26.96 Commission would again emphasise that it is giving opinion 21 years after the events when all the facts are known and Mr. Nagarvala at the time was working on the basis of clues and informations which had to be pieced together like a jigsaw puzzle and he had to depend on informers and contacts who were not always paragons of truth or models of efficiency. Of course, the cleverness of the police lay in separating the grain from the chaff.

26.97 Gopal Godse's statement about their group being aware of the precautions taken has also been discussed in the same chapter. He has categorically stated that even the arrest of their small group would not have saved the Mahatma as there were others who would have finished the job.

26.98 Besides, the time at the disposal of the Bombay Special Branch was very short as mentioned in the beginning of this part of the discussion. But still the lacunae above-mentioned remained and they required immediate attention. If in spite of proper action the tragedy was not prevented, well, the blame would then have to be put elsewhere.

26.99 What is the responsibility of a Minister for the failure of the police carrying out proper investigation is a very difficult and intricate subject to decide. As stated in a previous chapter, there are no accepted conventions in India. In India and even in Delhi large number of murders are committed and a sizeable number go untraced. In how many cases there is a previous knowledge of danger is not easy to say but there have been cases where people have apprehended danger and the police has been unable to avert the danger. It may be that in every case the responsibility of the Minister as the political head of the Department may not come into operation but the judge of all these matters is the Parliament. It would depend upon cases and cases also on the extent of police inefficiency and maladroitness. But the case of Mahatma Gandhi might be different. This has been discussed in the chapter dealing with Ministerial Responsibility *qua* the Civil Services.

But this has to be considered along with and subject to S. 49 of the Constitution Act, 1935 according to which functions of the Police under the Criminal Procedure Code are not transferred to the executive authority of the Governor.

26.100 There is also evidence that the Delhi Police sent two of their officers with some information regarding what Madanlal had stated at Delhi. The Delhi Police have said that they flew the officers to Bombay in order to tell Mr. Nagarvala the information that they possessed. But the difficulty is that there is no evidence of the information which these two officers possessed and gave. In their

police diaries the two officers have made a vague statement of saying that the facts of the case were disclosed to Mr. Nagarvala. But what were the facts of the case? Was Mr. Nagarvala told that Madanlal had made a statement as a consequence of which the Marina Hotel had been searched and the Hindu Mahasabha Bhawan raided? Did they tell him that Madanlal was searched soon after the arrest and a live handgrenade was found on him? Nothing is disclosed as to these vital matters. Unfortunately, the emphasis of the Delhi Police has been on Ex. 5-A which has not been proved to have been taken to Bombay and there is no evidence beyond this Ex. 5-A to show what information was conveyed to Mr. Nagarvala. Mr. Nagarvala on oath has denied that Delhi officers told him anything. He has also stated that his questioning these officers showed that they knew nothing more than Karkare's name. Therefore, he did not know what Madanlal had stated.

26.101 Assuming, though not deciding, that Madanlal had mentioned that one of the conspirators was the editor of "the Agrani and the Hindu Rashtriya", and this information was given to Mr. Nagarvala on the 22nd January, the Commission can find no reason why it should have been absolutely ignored by him in spite of the pet theory of kidnapping on which he was working. After all, Mr. Nagarvala was an able officer and if there had been a mention of the editor of the Agrani, there could be no reason why Mr. Nagarvala should not have found out his name from the documents he had with himself. On the other hand, it appears that had this paper or its editor been mentioned, that might have, though it may merely be speculative, led Mr. Nagarvala back to another investigational channel if not at least to give predominance to the Maharashtrian part of the conspirators rather than to the Punjabis.

26.102 But it may be added that in spite of the erroneous line adopted by Mr. Nagarvala, he was farsighted to warn the D.I.B. on January 27 to be careful about the safety of Mahatma Gandhi. That was on the basis of 20x20, i.e., 400 would be kidnappers and if proper precautions were taken in Delhi, the assassins might not have been successful or left unwatched.

26.103 Another intriguing part of the case is why did Nagarvala not ask the police officers from Delhi as to why they had come if they had no information. It may be that he was not the investigating officer *qua* the bomb case as there was no F.I.R. in Bombay but surely two junior officers had come to Bombay to arrest Karkare, even ordinary curiosity should have prompted Mr. Nagarvala to make further enquiries from the officers and if he could not get anything from them, he should have telephoned to Mr. Rana, his own D.I.G. though having no jurisdiction in Bombay City. The Commission has been unable to appreciate this position of Mr. Nagarvala and still less his statement that if the Minister had not told him to enquire into Jain's information, he would have referred the Delhi officers to a police station officer. Surely an attempt on Mahatma's life could not be so lackadaisically treated even by the Deputy Commissioner of Bombay Police. Perhaps, Mr. Nagarvala's statement was just a slip, a *lapsus linguae*.

26.104 Sardar Patel was right when he said that these junior officers should not have been sent to Bombay to meet Mr. Nagarvala.

26.105 Mr. Nagarvala was asked as to why V. D. Savarkar was not detained and his reply was that to arrest him after the bomb incident but before the murder would have set the whole of Maharashtra region of Bombay Province aflame.

26.106 The Commission, therefore, holds—

- (i) that the information, vague and even misty, which had been conveyed by the letter of Balukaka Kanitkar or the letter of Mr. S. R. Bhagwat should have been ordered to be investigated; and
- (ii) after the definite information of Professor Jain, the Bombay Police whether it was investigating or working out an information and therefore making an inquiry, every kind of effort should have been made to find out what the Ahmednagar Police and the Poona Police knew about Karkare and Badge, and certainly every effort should have been made to get information from the Provincial C.I.D. and the photographs which were belatedly obtained after the murder should have been obtained earlier and made such use of as the police thought proper.
- (iii) When the Delhi Police officers had come all the way from Delhi to arrest Karkare, attempt should have been made to find out what they knew and if they knew only about Karkare, further information should have been sought from them. And if they could not satisfy Mr. Nagarvala, then he should have asked Mr. Rana or even the Superintendent of Police, Delhi.
- (iv) In the matter of the life of Mahatma Gandhi and even his kidnapping, the Bombay Police should not have stood on so called proprieties and prestige. A little more interest in even subordinate police officers might have been rewarding. This is not to say that the complaint of the officers of maltreatment is accepted by the Commission. The way they just returned to Delhi does not show that they were very cooperative or careful. They might well have asked for instructions from Delhi.
- (v) Proceeding on the theory of kidnapping was an error and it appears to the Commission that the facts stated indicated a conspiracy to murder and did not support the theory to kidnap.
- (vi) In spite of an erroneous track of pursuit of kidnapping theory, Nagarvala did warn the D.I.B. by telephone on 27th January of the great danger regarding Mahatma Gandhi and if that had been heeded and acted upon, it is probable that the assassin might not have been able to get near Mahatma Gandhi.

26.107 The Commission would again emphasise that these remarks are being made not when police officers were making the inquiry or an investigation on small clues but after all the facts are known and all investigational processes have been disclosed and the results have followed which led to a tragic end.

26.108 The conditions prevailing in Delhi which have been discussed at great length in the chapter dealing with the subject show that there was a great deal of communal tension in Delhi, the refugees, who had come from West Punjab and N.W.F.P. were disheartened and frustrated when they could not get accommodation to live in, not even in empty Muslim houses. There was commotion when the Mahatma went on fast insisting on the payment of 55 crores to Pakistan and knowing so the people thought, that the money would be misused for getting sinews of war for fighting the Indian soldiers in Kashmir and on his insistence on the acceptance of his multi-point formula. Delhi was at that time disturbed. The police and the magistracy under Mr. M. S. Randhawa were engaged in maintaining law and order in the city. Mr. Randhawa's statement shows that conditions were very disturbed, communal riots were going on, murders were taking place, even the lives of the officers were not safe, and when he went out in the morning to look to the maintenance of law and order in the city he was never sure that he would return home safely. Besides this, there is evidence to show that the police had been depleted by the going away to Pakistan of the Muslim Police, both officers and men, a sizeable majority were Muslims, some of whom even carried away their fire-arms.

26.109 Not only was there depletion in the ranks of the police officers and men there was a similar depletion among the magistracy. Therefore, the maintenance of the law and order had become more difficult. Over and above the burden of maintaining law and order in the city and in the areas round about, there was the advent of refugees which had made the position worse, and to that was added the strain due to Mahatma Gandhi's fast which had made him very unpopular particularly among the refugees and the Hindu Mahasabha resulting in processions being taken to Birla House with slogans "*Marta hai to marne do*" (If he wants to die let him die). Besides, there were meetings of the Hindu Mahasabha on the 18th and 27th January 1948 where speeches in rather intemperate language were made and Mahatma Gandhi was blamed for the Partition and the miseries of the refugees and weakening of the Hindus. All this had created a very confused and confounded situation in Delhi.

26.110 After Mahatma Gandhi's fast, according to Pyare Lal's book "Mahatma Gandhi, the Last Phase" Vol. II, p. 722, "there was a great deal of improvement in the communal situation; but on the 20th January 1948, a bomb was thrown at Birla House and the police had then to direct its attention to the investigation of that offence". High ranking officers were put on the investigation including the D.I.B. himself but the course of investigation as disclosed by the police diaries and evidence of police officers does not show that high degree of investigation skill and purposeful enquiry which was expected of the high officers employed particularly when the D. I. B. himself had taken over the investigation and he had come with a big reputation from Madras.

26.111 In the chapter dealing with the Investigation by the Police in Delhi, the Commission has pointed out the course of investigation and the failures of the police have been pointed out sufficiently succinctly to say that the quality of investigation by the field officers

was not of that high order which one would have expected. It was a colourless investigation and little effort seems to have been directed to tracing the associates of Madanlal and there was little direction from the top.

26.112 The Commission has pointed out that after the disclosures by Madanlal in his first statement, assuming it to be correctly recorded, no efforts were made to find out anything at the Hindu Mahasabha Bhawan. Although two police officers were sent to Bombay and they had returned without achieving anything at all, no efforts were made to find out why their visit was so unproductive and telecommunication was significantly avoided. It may be that the alleged statement of Madanlal, Ex. 6, is a controversial matter, but without doubt a fuller statement was made on the 24th January which has been marked Ex. 1. In that statement, Karkare and Savarkar's names were mentioned and the proprietor of the Marathi newspaper "the Hindu Rashtriya" was mentioned. No effort was made to find out who this proprietor was and a copy of this statement was sent to Bombay through Mr. U. H. Rana, D.I.G., C.I.D., Poona, who chose to go to Bombay not by air, nor by a direct route, but via Allahabad, showing thereby that after the arrest of Madanlal the police had become somewhat complacent and did not expect from the escapee conspirators such unusually quick action which was, in the days gone by the characteristic of the Maratha Army.¹ The Delhi Police and even Mr. U. H. Rana, as he himself has admitted, did not expect that the conspirators would act with such swiftness to achieve their nefarious design, a wholly unfortunate misjudgment.

26.113 Whatever may have been the failure of Bombay Police, they may have non-cooperated with the Delhi Police and might have proceeded along a wrong channel, there was no justification for the Delhi Police not to have carried on their investigation diligently and intelligently and with a keen sense of professional efficiency and skill. The trouble was it was a new force made up by officers from the Punjab, N.W.F.P. and Sindh—a kind of a milange of different and disparate and not equally skilled elements not all used to difficult investigations. Besides, that police was wholly unfamiliar with V.I.P. security. The Commission has been unable to discover what exactly the Delhi Police did beyond some routine investigation which seems to have achieved nothing and left the field open for the conspirators to achieve their objective.

26.114 It did not suggest itself to Delhi Police to get police from Bombay and if necessary from other Provinces to act as watchers and spotters at Birla House. Nor did the Bombay Police send any officers as it did after the murder. This is without deciding the question of convention which appears to be controversial. Expert police witnesses, Messrs M. K. Sinha, G. K. Handoo and B. B. S. Jetley, particularly Mr. Handoo have deposed on security matters but those were neither tried at Birla House nor were they considered or thought of by the heads of Delhi Police. It is doubtful if they

were familiar with them. It is true that Mahatma Gandhi was not prepared to allow visitors to be searched and was not anxious to have police protection. Plain clothes policemen even were unwelcome to him. Short of search many other methods could be adopted which have been suggested by Mr. G. K. Handoo and which have been at some length discussed in another chapter 'The Conditions in Delhi'. This lack of proper planning in security arrangements at Birla House was an avoidable lapse. But whether this would have been a complete protection or shield against the assassin's bullet or bomb is more than anyone could say. According to Gopal Godse's statement even the arrest of Nathuram Godse and Apte and Karkare would not have saved the Mahatma as other would have taken their place; so determined was this band of Maharashtrian group in removing Mahatma Gandhi from leadership. This required careful detective work by Maharashtrian and Bombay Police which even that better trained force was unable to provide. But the suggested protective plan was worth adopting and acting on and not doing so was a serious error. Of course, it is possible that Mahatma would have objected to this vigilance also. But that is a different topic.

26.115 The evidence afforded by the photostat copy attached at another place of the Mahatma's presence at the *Urs* of Khwaja Qutub-ud-Din at Mehrauli is a baffling piece of evidence. At that place and in that crowd, no precautionary measures appear to have been possible. This piece of evidence shows that the Mahatma had not taken the warning of danger seriously and that the crowds at Delhi were not so inimical to him as Mr. Morarji Desai suspected in spite of their processions and angry slogans and that Mr. J. N. Sahnii's assessment of their mood was correct. (See Delhi Conditions). It also shows that the real danger was from the Poona Savarkarite Rashtra Dal.

26.116 Commission agrees that the proper constitutional position is that if any information of danger comes to the knowledge of a Minister, his duty is not to investigate himself or to be giving orders for arrest but to convey the information to a high police officer in whom he has confidence. That is the opinion of Mr. K. M. Munshi and that is the opinion of Mr. R. N. Bannerjee, one an eminent lawyer, the other an experienced Civil Servant. But it is for the police to take proceedings for the investigation of offences and apprehension of the offenders. In cases of danger to a person or apprehension of violence, the police has to take appropriate measures and in the case of an offence being committed they are by statute charged with the duty of investigation, searching for and apprehending of offenders. It was for the police to apprehend by the use of proper investigational methods, the persons whose names were given by Madanlal or whose names came to their knowledge. While dealing with the police investigation in Delhi, Commission has pointed out the lacunae and lapses on the part of Delhi Police.

26.117 Mr. Bannerjee has rightly said that the police was guilty of lethargy and inefficiency and the Commission is of the opinion that in the circumstances those precautions should have been taken, which were deposed to before the Commission and in their depositions suggested by police experts. But its result might not be predictable.

26.118 The Commission is unable to hold that the failure of the Bombay Police or their non-cooperation or their wrong investigational tracks, was any justification for the inefficiency shown by the Delhi Police. That however does not exonerate the Bombay Police of the blemishes in their investigation or of rigidity.

26.119 The three principal lacunae of Delhi Police were the failure to provide unobtrusive protection to Mahatma Gandhi and the failure to get Bombay Police to guard and act as watchers and spotters and the failure to get the identity of the proprietor of "the Hindu Rashtriya" and put the Poona Police on to trace him and his associates.

FINDINGS SUMMED UP

26.120 The findings of the Commission on the three terms of reference are as follows:—

Term of Reference (a)—

(i) Mr. G. V. Ketkar of Poona did have prior information about danger to the life of Mahatma Gandhi in October or November, 1947.

(ii) He did have information of the conspiracy of Nathuram Godse which he learnt from his talk with D.R. Badge on or about January 23, 1948.

(iii) Upto the time he met Badge, he did not know that Apte and Badge were in the conspiracy to murder Mahatma Gandhi; but he must have known about Nathuram Godse's complicity as Nathuram had told him in October or November of his intention or plan to assassinate the Mahatma.

That is the finding of the Commission on the first term of reference.

26.121 Its findings on the second i.e. (b) are as follows:—

Term of Reference (b)—

(i) Mr. G. V. Ketkar did not communicate any information to the Government of Bombay or to the Government of India or any of its authorities.

(ii) In particular, Mr. Ketkar did not get any information conveyed to the late Mr. B.G. Kher through the late Balukaka Kanitkar. This claim made by him is not established. Balukaka Kanitkar conveyed the information, the information of danger to the life of Mahatma Gandhi and other top leaders of the Congress, on his own and out of his own volition.

26.122 The findings of the Commission on the third term i.e. (c) are as follows:

Term of Reference (c)—

(i) On the basis of the information conveyed to the Government of Bombay, and in particular to Mr. B.G. Kher, no action to try and get the information checked is proved to have been taken by the Government of Bombay or Mr. B.G. Kher, or by any authority under

that Government. The information, in the opinion of the Commission, was vague, misty, nebulous and obscure but the matter should have been referred to the Police C.I.D. and got properly vetted and confirmed. It must be added that it will be highly speculative and conjectural on the part of the Commission to say what the result of this investigation would have been. It might well have been as unproductive, sterile and fruitless as was the result of investigation following definite information given by Professor Jain or the confessional police statement of Madanlal.

(ii) There is no evidence from Delhi Secretariat or official records or from evidence of Delhi witnesses to show that the information given by Balukaka Kanitkar to Mr. B.G. Kher was conveyed to Government of India, i.e. Sardar Patel, Balukaka Kanitkar in a subsequent letter, Ex. 11, did say that Mr. B.G. Kher told him that he had conveyed the information to the Sardar. But there is no corroboration of this bald statement either in the evidence of Sardar's Private Secretary Mr. V. Shankar or of Mr. R.N. Banerjee or of Miss Maniben Patel. Mr. Morarji Desai has stated that he informed the Sardar of this danger but he has also stated that Sardar already knew about it from his own sources.

(iii) The information of Balukaka Kanitkar was neither conveyed to any officer of the Government of Bombay nor to any officer of the Government of India.

(iv) There is evidence of Mr. Morarji Desai that information given by Balukaka was taken into consideration when the threat relating to welcome to and felicitation of Daji Joshi was discussed. At that meeting Messrs Kher and V.T. Dehejia and Mr. Morarji Desai were present.

(v) There is evidence of Mr. V. Shankar that whatever information Sardar had in regard to danger to the life of Mahatma Gandhi whether conveyed to him by Mr. Morarji Desai or received through his own sources was communicated to and discussed with the Provincial Governments which, in the opinion of the Commission, was the proper thing to do under the Constitution.

(vi) The precautions taken at Birla House and the adequacy thereof have been discussed in sub-chapters (G) and (H) of Chapter XII. To put them shortly, the previous police staff of five was increased as follows:—

- (1) 1 Assistant Sub-Inspector, 2 Head Constables and 16 Constables—Uniformed Police.
- (2) 1 Sub-Inspector, 4 Head Constables and 2 Constables in plain-clothes, all armed with revolvers.
- (3) 3 plain-clothes men on the path leading from Birla House to the place where prayer was held.
- (4) A small detachment of troops for moving patrols all round the compound.

(vii) The Commission has held that the proposal of the police to search every person going to the prayer meeting was not acceptable to Mahatma Gandhi and could not be put into operation without his consent. But it should have been possible to devise other protective

measures, such as those suggested by three expert police witnesses—Mr. B.B.S. Jetley, Mr. G. K. Handoo and Mr. N. M. Kamte. What was suggested was—

- (a) that police from Bombay should have been called in to act as watchers and spotters and others should have been stationed outside Birla House.
- (b) High ranking police officers should have been put in immediate charge of security as was done in the case of other V.I.P.s but after the murder.
- (c) Plain clothes police should have been deployed as if they were domestics and Congress volunteers to be flanking Mahatma Gandhi when he was going to the prayer meetings or returning therefrom.
- (d) Congress volunteers should also have been asked to flank Mahatma Gandhi if there was any strong objection to the presence of police flanking him. This was the practice which was generally followed before the partition in the northern provinces.
- (e) At the Birla House the members of Mahatma's party were totally oblivious of the danger to his life even after the bomb incident and it appears that the Congress volunteers for that reason had become rather lax.
- (f) Mr. J. P. Narayan as witness has stated that before the murder if anybody had told him that the Mahatma's life was in danger, he would not have believed it.

(viii) Evidence shows the Mahatma attending the *Urs* of a Mohammedan saint, Kutub-ud-din Bakhtyar at Mehrauli on January 27, 1948, where he has been shown in a photograph taken from the Hindustan Times dated 28th January being as close to the crowd as possible. This would have made the task as difficult as possible. But that was no ground for not taking proper precautions which the experts had suggested even though in spite of that the mishap could have taken place. The presence of the Mahatma at the *Urs* and an account of it is given in a photostat copy of the Hindustan Times dated January 28, 1948 which has been attached at another place.

(ix) The information which was conveyed to the Bombay Police as a result of information given by Professor Jain to Mr. Morarji Desai and the inquiry following thereupon proved sterile, because the inquiry became tangential i.e. instead of trying to make an inquiry as to a conspiracy to murder, they took the unproductive track of conspiracy to kidnap. Thereby the definite information conveyed to them got bogged in the attempt to search for the would be kidnappers rather than the future murderers. Thus the inquiry was *mal-a-propos*.

(x) The investigation of the Delhi Police after the arrest of Madanlal was not of a high professional order and it lacked investigational skill and drive which one should have expected from a trained police force and particularly in the case of threat to the life of a person of the eminence of Mahatma Gandhi taking into considera-

tion the knowledge of the factum of a conspiracy to murder Mahatma Gandhi which information Madanlal after his arrest gave to the Delhi Police.

(xi) The D.I.G., C.I.D., Poona, Mr. U. H. Rana seems to have ignored the importance and utility of Madanlal's fuller statement, Ex. 1, wherein the mention of the proprietor of "*the Hindu Rashtriya*" was a very valuable clue, which if pursued would have disclosed the identity of Apte and with a little more diligence also of Godse. Whether they could have arrested them or not would still be speculative.

(xii) It is unfortunate that Mr. Nagarvala was not allowed an opportunity to read and study Madanlal's statement, Ex. 1, and it is surprising why he did not evince any interest in that statement and insist of reading it through to find out what Madanlal had disclosed. This action is quite at variance with his later action after the murder, when he got Madanlal over to Bombay and interrogated him at great length. No doubt, then he was the principal investigator and previously he was what he calls, working out an information. It might be that his inquiry was complementary to the investigation by the Delhi Police, but a study of Madanlal's statement should have been as helpful then as it was after the murder.

(xiii) The powers of the Police to move in a case like the present where information was given to Bombay Police of a conspiracy to murder Mahatma Gandhi at Delhi have been debated before the Commission. It was argued that in such cases the Bombay Police, as then constituted, was helpless and had no power to investigate and take action. That makes S.44 Cr. P.C. otiose. If that argument is accepted, this will apply not only to the then Bombay City Police but would apply also to offences falling under and governed by the Criminal Procedure Code. The Commission has not agreed with the submission made before it that a police within the City of Bombay or anywhere else is powerless in such cases. But a different opinion is possible on this point and the Commission would suggest that the Government may get this question examined and get the matter clarified because if the contention raised before the Commission is correct then it will create a serious lacuna in dealing with offenders and offences likely to be committed by persons who are within the jurisdiction of one police but are likely or are going to commit the offence within the jurisdiction of another police.

(xiv) Evidence shows that Godse and Apte were staying at different hotels under assumed names. Where the hotel keeper has no means of knowing that the names being given are false, there may be no easy remedy. But where, as in the case of Arya Pathik Ashram the manager, Gaya Prasad Dubey, P.W. 63, was aware that Apte had given a false name and yet he allowed that to be done without demur, the law should be made stringent and should make the hotel keeper liable in such cases to higher penalty than merely a small fine.

(xv) In considering the measures taken by the authorities this crucial fact has to be kept in view that the Congress Governments had just come into power after several years of struggle by the Congress and its helpers against the British Government, in which the

strictness of police interference with the liberty of the subject played a very important part. The Congress Governments could not suddenly adopt or allow the adoption of strict measures by the police, a tail put on by them on and keeping, as it were, under surveillance citizens of India even if they happened to be rather bad citizens.

SHASTRI BHAVAN,
NEW DELHI
September 30, 1969.

(J. L. KAPUR)
Commission of Inquiry
(Mahatma Gandhi Murder Conspiracy)

APPENDIX I

NUMBER OF DOCUMENTS EXHIBITED BEFORE THE COMMISSION

Grand Total	407
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SITTINGS OF THE COMMISSION FOR EXAMINATION OF WITNESSES AND HEARING ARGUMENTS

Place	No. of days
1. Bombay	72
2. New Delhi	77
3. Dharwar	1
4. Nagpur	1
5. Poona	3
6. Baroda	7
7. Chandigarh	1
GRAND TOTAL	162

SITTINGS OF THE COMMISSION FOR EXAMINATION OF WIT-
NESSES AND HEARING ARGUMENTS

I. Bombay

Dates	No. of days
December, 1966	
15 & 16	2
March, 1967	
6, 7, 8 & 9	4
June, 1967	
23	1
September, 1967	
5, 6, 8, 9, 11, 12, 13, 14, 15 & 16	10
February, 1968	
9, 10, 14 & 15	4
June, 1968	
3, 4, 5, 6, 7, 8 & 10	7
August, 1968	
5, 6, 7, 8, 9, 10, 12 & 13	8
September, 1968	
11, 12, 13, 14 & 16	5
November, 1968	
13, 14, 19, 20 & 21	5
January, 1969	
20, 24, 25, 27 & 28	5
March, 1969	
10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21 & 22	12
May, 1969	
8, 9, 10, 12, 13, 14, 15, 16 & 17	9

Total: 72

II New Delhi

Dates	No. of days
April, 1967	
10, 11, 12, 13 & 14	5
May, 1967	
8, 9, 10, 11 & 12	5
July, 1967	
17, 18, 19, 20, 21 & 22	6
October, 1967	
16, 17, 18, 19, 20 & 21	6
November, 1967	
13	1
January, 1968	
17, 18, 19, 20, 22 & 23	6
April, 1968	
22, 23, 24, 25, 26 & 27	6
July, 1968	
22, 23, 24, 25, 26 & 27	6
December, 1968	
16, 17, 18, 19, 23 & 24	6
January, 1969	
6, 7 & 14	3
February, 1969	
17, 18, 19, 21, 24, 25, 26, 27 & 28	9
March, 1969	
1 & 3	2
April, 1969	
7, 8, 9, 10, 11, 14, 15, 16, 17, 18 & 21	11
May, 1969	
27, 28 & 29	3
June, 1969	
3 & 4	2

Total: 77

III. Dharwar

Dates	No. of days
June, 1967	1
20	
Total:	1

IV. Nagpur

February, 1968	
6	1
Total:	1

V. Poona

February, 1968	
12 & 13	2
January, 1969	
20	1
Total:	3

VI. Baroda

October, 1968	
11, 12, 14, 15, 16, 17 & 18	7
Total:	7

VII. Chandigarh

January, 1968	
10	1
Total:	1

I. Arguments on Mr. Nagarvala's Objection Petition

1. Mr. Nagarvala	11-9-68
2. Mr. Kotwal	12 and 13-9-68
3. Mr. Lall	14 and 16-9-68
4. Mr. Kotwal's reply	16-9-68

II. Arguments on the main case

1. By Mr. R. B. Kotwal

At Bombay	At New Delhi
27-1-69	26-2-69
28-1-69	27-2-69
10-3-69	28-2-69
11-3-69	1-3-69
12-3-69	3-3-69
13-3-69	7-4-69
14-3-69	8-3-69
16-3-69	9-4-69
17-3-69	10-4-69
18-3-69	11-4-69
19-3-69	14-4-69
20-3-69	15-4-69
21-3-69	16-4-69
22-3-69	17-4-69
8-5-69	18-4-69
9-5-69	21-4-69
10-5-69	23-5-69
Total . 17 days	29-5-69
	3-6-69
	4-6-69
	Total . 20 days

GRAND TOTAL—37 DAYS

2. By Mr. B. B. Lall

At Bombay	At New Delhi
12-5-69	18-2-69
13-5-69	19-2-69
14-5-69	24-2-69
15-5-69	25-2-69
16-5-69	26-2-69
17-5-69	27-2-69
Total . 6 days	27-5-69
	Total . 7 days

GRAND TOTAL—13 DAYS

List of Witness Examined by the Commission

Witness No.	Name	Date of Examination	Place of Examination	No of days
1	2	3	4	5
1	Mr. G. V. Ketkar	6th & 7th March '67	Bombay	4
	Mr. G. V. Ketkar (recalled)	12th Feb., 1968	Poona	
	Mr. G. V. Ketkar (recalled)	20th January, 1969	Bombay	
2	Mr. M. G. Kanitkar	6th March, 1967	Bombay	3
	Mr. M. G. Kanitkar (recalled)	9th March, 1967	Bombay	
	Mr. M. G. Kanitkar (recalled)	8th August, 1968	Bombay	
	(No. 9 before Pathak Commission on 1-12-65)			
3	Mr. U. H. Bana	7th March, 1967	Bombay	8
	Mr. U. H. Bana (recalled)	11th, 12th, 14th, 15th, 16th, 17th and 18th Oct., 1968	Baroda	
4	Mr. N. M. Kanute	8th & 9th March, 1967	Bombay	4
	Mr. N. M. Kanute (recalled)	15th Feb., 1968	Bombay	
	Mr. N. M. Kanute (recalled)	20th Nov., 1968	Bombay	
	(No. 14 before Pathak Commission on 2-12-1963)			
5	Mr. N. K. Khot	8th March, 1967	Bombay	1
	(No. 16 before Pathak Commission on 2-12-1965)			
6	Mr. N. Y. Doulkar	8th & 9th March, 1967	Bombay	3
	Mr. N. Y. Doulkar (recalled)	14th Feb., 1968	Bombay	
	(No. 12 before Pathak Commission on 1-12-65)			
7	Mr. Kanji Dwarika Das	9th March, 1967	Bombay	1
8	Mr. William D'Souza	9th March, 1967	Bombay	1
	(No. 11 before Pathak Commission on 1-12-1965)			
9	Mr. B. A. Haldipur	9th March, 1967	Bombay	3
	Mr. B. A. Haldipur (recalled)	18th July, 1967	New Delhi	
	Mr. B. A. Haldipur (recalled)	21st April, 1969	New Delhi	
10	Mr. V. Shaukar	10th April, 1967	New Delhi	1
	(No. 1 before Pathak Commission on 1-10-1965)			
11	Mr. Brij Kishan Chaudhrala	10th April, 1967	New Delhi	1
	(No. 2 before Pathak Commission on 9-10-1965)			
12	Malik Balkishan	11th & 12th April, 1967	New Delhi	3
	Malik Balkishan (recalled)	20th July, 1967	New Delhi	
	(No. 7 before Pathak Commission on 27-11-1965)			
Total				33

1	2	3	4	5	B/F	33
13	Mr. Rikhi Kesh	13th & 14th April, 1967	New Delhi			3
	Mr. Rikhi Kesh (recalled)	23rd January, 1968	New Delhi			
14	Mr. Dasoudha Singh	13th April, 1967	New Delhi			3
	Mr. Dasoudha Singh (recalled)	6th June, 1967	New Delhi			
	Mr. Desoudha Singh (recalled)	21st July 1967	New Delhi			
15	Mr. Purshottam Trikamdas	8th May, 1967	New Delhi			1
16	Mr. Jai Dayal Anand	8th May, 1967	New Delhi			2
	Mr. Jai Dayal Anand (recalled)	17th July, 1967	New Delhi			
17	Mr. A. N. Bhatia	9th May, 1967	New Delhi			3
	Mr. A. N. Bhatia (recalled)	17th October, 1967	New Delhi			
	Mr. A. N. Bhatia (recalled)	24th April, 1968	New Delhi			
18	Dr. M. S. Randhawa	10th May, 1967	New Delhi			2
	Dr. M. S. Randhawa (recalled)	10th January, 1969	Chandigarh			
	(No. 5 before Pathak Commission on 16-10-1965)					
19	Mr. R. N. Banerjee	11th May, 1967	New Delhi			3
	Mr. R. N. Banerjee (recalled)	26th April, 1968	New Delhi			
	Mr. R. N. Banerjee (recalled)	14th January, 1969	New Delhi			
	(No. 17 before Pathak Commission on 21-1-1966)					
20	Mr. Prithi Chand	11th May, 1967	New Delhi			2
	Mr. Prithi Chand (recalled)	21st July, 1967	New Delhi			
21	Mehta Kartar Singh	12th May, 1967	New Delhi			2
	Mehta Kartar Singh (recalled)	18th July, 1967	New Delhi			
22	Mr. N. S. Gurusu	20th June, 1967	Dharwar			1
23	Mr. D. W. Mehra	23rd June, 1967	Bombay			2
	Mr. D. W. Mehra (recalled)	7th April, 1969	New Delhi			
24	Pandit Jagannath	17th July, 1967	New Delhi			1
25	Mr. Kedar Nath Sawhney	18th July, 1967	New Delhi			1
26	Sardar Kartar Singh	19th July, 1967	New Delhi			1
27	Dr. J.C. Jain	5th Sept., 1967	Bombay			2
	Dr. J.C. Jain (recalled)	13th August, 1968	Bombay			
	(No. 15 before Pathak Commission on 2-12-1965)					
Total						62

1	2	3	4	5	
					B/F . 62
28	Mr. Angad Singh	6th Sept., 1967	Bombay	1	
29	Mr. Y. B. Yajnik	6th Sept., 1967	Bombay	1	
30	Mr. Mani Shankar Purohit	8th Sept., 1967	Bombay	1	
31	Mr. G. S. Chaudhary	9th Sept., 1967	Bombay	1	
32	Mr. N. K. Doshmukh	9th Sept., 1967	Bombay	1	
33	Mr. Gopal Godse	11th Sept., 1967	Bombay	2	
	Mr. Gopal Godse (recalled)	13th Feb., 1968	Poona		
34	Mr. S. K. Abdul Razak	12th Sept., 1967	Bombay	1	
35	Mr. S. S. Rane	12th Sept., 1967	Bombay	1	
36	Mr. L. N. Joshi	13th Sept., 1967	Bombay	1	
37	Mr. A. S. Balkundi	13th Sept., 1967	Bombay	1	
38	Mr. Pravin Singhji	14th Sept., 1967	Bombay	1	
39	Mrs. Sarla Barve	14th Sept., 1967	Bombay	1	
40	Mr. J. S. Rane	15th Sept., 1967	Bombay	1	
41	Mr. Pradhan	15th Sept., 1967	Bombay	2	
	(part heard)		Bombay		
	Mr. Pradhan for further examination on 9th Feb., 1968.				
42	Mr. R. C. Bhatia	16th Oct., 1967	New Delhi	1	
43	Chhotu Ram	16th Oct., 1967	New Delhi	1	
44	Mr. M. K. Sinha	18th & 19th Oct., 1967	New Delhi	3	
	Mr. M. K. Sinha (recalled)	23rd July, 1968	New Delhi		
45	Mr. P. N. Seth	18th October, 1967	New Delhi	1	
46	Mr. Atam Prakash Baghai	19th October, 1967	New Delhi	1	
47	Mr. Pannalal Chaube	19th October, 1967	New Delhi	1	
48	Mr. G. K. Handoo	20th October, 1967	New Delhi	3	
	Mr. G. K. Handoo (recalled)	22nd July, 1968	New Delhi		
	Mr. G. K. Handoo (recalled)	18th Feb., 1969	New Delhi		
49	Mr. Kundan Singh	20th Oct., 1967	New Delhi	1	
50	Ganesha Singh Pakhtoon	21st Oct., 1967	New Delhi	1	
51	Gopi Krishna Katorey	21st Oct., 1967	New Delhi	1	
52	Mr. J. S. Barucha	13th November, 1967	New Delhi	1	
53	Dr. Sushila Nayar	17th January, 1968	New Delhi	1	
54	Mr. Pyarelal	17th January, 1968	New Delhi	1	
55	Mr. B.B.S. Jatley	18th January, 1968	New Delhi	5	
	Mr. B.B.S. Jatley (recalled)	19th January, 1968	New Delhi		
	Mr. B.B.S. Jatley (recalled)	23rd April, 1968	New Delhi		
	Mr. B.B.S. Jatley (recalled)	25th July, 1968	New Delhi		
	Mr. B.B.S. Jatley (recalled)	14th January, 1969	New Delhi		
56	Mr. Hiralal	18th January, 1968	New Delhi	1	
57	Mr. N. B. Sawant	19th January, 1968	New Delhi	1	
	Total			102	

1	2	3	4	5	
					Brought forward . 102
58	Mr. Benoy Bhusan	19th January, 1968	New Delhi	1	
59	Mr. M.M.L. Hooja, DIB	20th January, 1968	New Delhi	1	
60	Mr. Dayal Singh	20th January, 1968	New Delhi	1	
61	Mr. Radhika Narain Sukla	23rd January, 1968	New Delhi	1	
62	Dr. N.B. Khare	6th February, 1968	Nagpur	1	
63	Mr. S.A. Khatib	6th February, 1968	Nagpur	1	
64	Mr. P.D. Akhlesaria	9th February, 1968	Bombay	1	
65	Mr. K.K. Hivale	9th February, 1968	Bombay	1	
66	Mr. P.R. Purohit	10th February, 1968	Bombay	1	
67	Mr. P.G. Shidhore	10th February, 1968	Bombay	1	
68	Mr. G.N. Angarkar	12th & 13th February, 1968	Poona	3	
	Mr. G.N. Angarkar (recalled)	22nd January, 1969	Khed Shivpur (Poona)		
69	Mr. S.R. Bhagwat	12th February, 1968	Poona	1	
70	Mr. A. David	14th February, 1968	Bombay	1	
71	Mr. P.S. Gokhale	15th February, 1968	Bombay	1	
72	Mr. D.V. Athale	15th February, 1968	Bombay	1	
73	Mr. P.C. Bannerjee	22nd April, 1968	New Delhi	1	
74	Mr. B.B. Misra	22nd April, 1968	New Delhi	1	
75	Prof. Ram Singh	23rd April, 1968	New Delhi	1	
76	Bakshi Bal Mukand	25th April, 1968	New Delhi	1	
77	Girihar Sharma Sidh	25th April, 1968	New Delhi	1	
78	Mr. Ram Lal	26th April, 1968	New Delhi	1	
79	Miss Maniben Patel	27th April, 1968	New Delhi	1	
80	Mr. R.C. Joshi	3rd June, 1968	Bombay	2	
	Mr. R.C. Joshi (recalled)	20th November, 1968	Bombay		
81	Mr. S.V. Ketkar	3rd June, 1968	Bombay	1	
82	Mr. K.M. Munshi	4th June, 1968	Bombay	1	
83	Mr. J.D. Nagarvala	5th, 6th, 8th and 10th June, 1968; 5th, 6th, 7th, 8th, 9th & 12th August, 1968; 11th, 12th, 13th, 14th & 16th September, 1968; 14th, 19th, 20th and 21st November, 1968.	Bombay	19	
	Mr. J.D. Nagarvala (recalled)	24th January, 1969		1	
	Total			160	

1	2	3	4	5
			Brought forward	150
84	Mr. V.T. Dehejia	7th June, 1968	Bombay	4
	Mr. V.T. Dehejia (recalled)	13th & 14th November '68	Bombay	
	Mr. V.T. Dehejia (recalled)	19th November, 1968	Bombay	
85	Mr. B.B. Paymaster	8th June, 1968	Bombay	1
86	General Mohan Singh	22nd July, 1968	New Delhi	1
87	Mr. Ashoka Mehta	24th July, 1968	New Delhi	1
88	Mr. Shriyans Prasad Jain	8th August, 1968	Bombay	1
89	Mr. Ajanta Jain	10th August, 1968	Bombay	1
90	Mr. D. Haribalan Godekar	10th August, 1968	Bombay	1
91	Mr. M. Harris	12th August, 1968	Bombay	1
92	Mr. Omale	12th August, 1968	Bombay	1
93	Mr. M.M. Joshi	13th November, 1968	Bombay	1
94	Mr. S.N. Sawant	25th January, 1969	Bombay	1
95	Mr. J.N. Sahni	16th December 1968 and 6th January, 1969	New Delhi	2
96	Mr. Mwarji Dessai	10th, 17th, 18th, 19th 23rd and 24th December, 1968	New Delhi	6
97	Mr. R.K. Khadihar	17th December, 1968 and 7th January, 1969	New Delhi	2
98	Mr. J.P. Narayan	17th February, 1969	New Delhi	2
	Mr. J.P. Narayan (recalled)	21st February, 1969	New Delhi	
99	Manubehn Gandhi	10th March, 1969	Bombay	1
100	Mr. S. Bana Krishnan	13th March, 1969	Bombay	1
101	Mr. A.G. Rajadhyaksha	17th March, 1969	Bombay	1
		Grand Total		179

APPENDIX II

*Excerpts from Parliamentary Debates (Rajya Sabha)—Vol. L No. 6—
24th November, 1964. (Calling Attention Motion)*

THE MINISTER OF HOME AFFAIRS (SHRI GULZARILAL NANDA): Sir, following the recent release of the three convicts of the Mahatma Gandhi Murder Case, certain reports have appeared in the Press which have caused intense pain and resentment. According to these reports, which have subsequently been confirmed by the State Government, a meeting was organised at Poona on November 12, 1964 to felicitate two of the convicts—Gopal Godse and Vishnu Karkare—on their release. Presiding over the meeting, Shri Ketkar, Editor of Tarun Bharat, claimed that he had known of the intention of Nathuram Godse to assassinate Mahatma Gandhi and had conveyed this information to the late Shri B.G. Kher, the then Chief Minister of Bombay, through Balukaka Kanetkar. He is further reported to have said that he had made an attempt to dissuade Nathuram Godse from carrying out his intention. Shri Ketkar repeated the statement substantially at another meeting held on November 15, 1964 at Poona to mark the death anniversary of the assassin of Mahatma Gandhi. As both Balukaka Kanetkar and Shri Kher are new no more, it has not been possible immediately to verify Shri Ketkar's claim of having communicated his knowledge of the intention to assassinate Gandhiji to Shri Kher. Government are marking a thorough inquiry into the matter with the help of old records and in consultation with the Government of Maharashtra.

Whatever the truth or otherwise of this matter, the fact that the death anniversary of the assassin of one of the greatest men of all times, whose memory is highly venerated and cherished not only in this country but throughout the world, should be observed and that the other ex-convicts should be felicitated on their release at a public function has come as a profound shock to the Government and the people of this country. It is amazing that an act so revolting to human decency and the highest values cherished by this ancient land since the dawn of time should hold an appeal even to an infinitesimal section of our people.

SHRI A.D. MANI (MADHYA PRADESH): Sir, I would like to know from the Home Minister whether he has received a detailed report on what happened at the meeting. According to what has been published, Mr. Ketkar disclosed that for about three months prior to Gandhiji's murder, Nathuram "used to discuss with me the pros and cons" of his idea to kill Gandhiji. He was opposed to the idea and "used to tell Nathuram to consider the consequences, both social and political". Mr. Ketkar said that after the first incident—this is important (Madanlal had exploded a bomb at Gandhiji's prayer meeting a few days before the murder), Badge (who turned approver) had come to Poona and told him (Mr. Ketkar) of "their future plans". Mr. Ketkar added that he thus knew that they were going to kill Gandhiji. As Mr. Ketkar said these things, Mr. Gopal Godse asked him not to speak "more about it". But Mr. Ketkar said that "they will not arrest me now for that". Sir, I should like to ask the Home Minister and the Leader of the House, who happens to be here.....

SHRI P.N. SAPRU (UTTAR PRADESH): I did not follow the last sentence.

SHRI A.D. MANI: The last sentence was this. As Mr. Ketkar said these things, Mr. Gopal Godse asked him not to speak "more about it". But Mr. Ketkar said that "they will not arrest me now for that". Sir, I should like to ask the Home Minister and the Leader of the House, who is an eminent Judge, whether under law the conspiracy to kill Gandhiji ended with the murder trial of Godse or the conspiracy is a continuing conspiracy. If some persons had known more about it, that fact should be ascertained from them by the Government. It is not a question of making an enquiry through the Government of Bombay. The persons said that he knew about the murder plan. I would like to ask the Home Minister whether any attempt has been made by the Government of India to ask Mr. Ketkar to give all those details he knows.

SHRI BHUPESH GUPTA (WEST BENGAL): Sir.....

THE VICE-CHAIRMAN (SHRI M.P. BHARGAVA): There are some Members who had given the notice. Would you like to answer one by one or would you hear them all and then reply?

SHRI A.D. MANI: One by one, so that he may not get confused.

SHRI GULZARILAL NANDA: As you like, Sir. So far as this particular question is concerned, it is a matter not of my opinion, but what the proper legal course and possibilities would be and I understand that it should be possible to take action against a person for having been an accessory before the act. In that sense possibly the conspiracy would not have terminated at that point. But in this case how exactly that has a bearing on the situation, I am not able to say immediately. We are in touch with the Maharashtra Government. So far as now ascertained, the position is that this gentlemen claims, of course, knowledge, but also that he had tried to dissuade this person and further that he had tried to prevent such a thing happening by giving an early intimation to some persons who could have done something about it.

SHRI ABID ALI (MAHARASHTRA): In the notice which I had submitted, this was also mentioned. I had requested the Government to kindly mention their reaction to the receptions which are being organised for the ex-prisoners recently released. In this connection, I would also request the Hon. Minister to let the House know about the action they contemplate with regard to what has been mentioned. In this connection, as he knows, a copy of the Bhagawat Gita and a picture of Lord Krishna, which were with the person who was hanged and a Bhaguvata Jhanda of the Hindu Maha Sabha, which he had pinned on his shirt, when he was hanged, were also displayed at this meeting. The photo of the hanged Godse was decorated and displayed there. Sir, in this connection it is known that the Government of Maharashtra has sought the advice of the Government of India. May I know whether they have received their communication and what they contemplate to do in this behalf? The situation is full of anxiety very much, not only of this Godse, but also the photo of Mao is being decorated and displayed at many places. It is a very serious question

that such traitors should be going on in this way and their photos are displayed, decorated, garlanded and respected. The Government has to be alert. Of course, it is alert about it. But the House would like to know what is contemplated by the Government, so that such things are stopped.

(Interruptions)

THE VICE-CHAIRMAN (SHRI M.P. BHARGAVA): One by one. Let him reply to this.

SHRI GULZARILAL NANDA: From what we have known from both press reports and the other information that we have obtained, it is obvious that what occurred there at that reception can only be called in the nature of an atrocious manifestation of an ugly mentality bordering on insanity and I cannot characterise it in terms less severe. Now, what has to be done about it? What Government can do is merely one part. I see that there is report that Mr. Naik, the Chief Minister, told pressmen here yesterday that the State Government would take necessary action against those who had recently arranged a public reception at Poona to felicitate Gopal Godse and Vishnu Karkare on their release from prison, etc.

So, it appears that the Maharashtra Government is considering this question.

The other part of the question was about the dangers, the hazards that it creates. I think the best answer to that certainly is an awakened community sensitive to all these happenings and therefore, creating a widespread feeling against such manifestation. That social awakening is really the best and most adequate answer for this. Whether anything in the nature of a legal action is possible or not I cannot say, but we are in touch with the Maharashtra Government. We have not received any communication from them, which the Hon. Member referred to, but we shall certainly be in touch with that Government, and any information or help or advice that that Government seeks from us certainly we shall be prepared to give.

About the other thing which was brought into this question, I think there may be some other occasion to answer that unless the idea of the Hon. Member is that there are instigations to violent activity which are associated with certain names. Wherever there is any violent activity, certainly we have to put it down or any effort or attempt or any kind of a feeling generated for that purpose.

SHRI CHANDRA SHEKHAR (UTTAR PRADESH): Mr. Vice-Chairman, with your permission I may read only a few lines of the report that appeared in the Indian Express of November 15th—

"Several of those present offered puja to a photograph of Nathuram Godse hung decoratively in an outline of undivided India. Those who offered Pooja included Gopal Godse, Vishnu Karkare, both of whom were sentenced to life imprisonment and were released last month and a free lance journalist".

The report further says—

"Speakers on the occasion including Mr. N.G. Abhyankar, RSS leader, Mr. P.V. Davare and Mrs. Shantabai Gokhale said that Nathuram was a 'martyr'.

Mr. Abhyankar described Nathuram as a 'true follower of Bhawan Krishan and Chatrapati Shivaji'.

I am more concerned about that aspect of the question. It is not only that certain people held a reception for Godse but these people are guilty of a criminal offence for perpetuating a cult of violence, a cult of political assassination that Nathuram Godse represents. It is not a question of people getting awakened as the Hon. Home Minister has said. As it is a criminal offence under the present law of the land, why did not the Government move in the matter, whether it is the Maharashtra Government or the Union Government, to take action against those persons who are trying to glorify a person who is the symbol of political anarchy, who is the symbol of political shame. This is the supreme affront that the Indian nation can face that the assassin of the Father of the Nation is being glorified as a martyr and indirectly people are inciting that this cult of violence and political assassination should continue. It is a peculiar hint that the particular editor who is mentioned by the Home Minister sends in a report to say that the published reports of that speech are generally correct. This is a clear confession. I wonder why the Home Ministry here and the Government of Maharashtra did not move in the matter and arrest all those persons. Those persons who are preaching only for economic interest of poor people, are being dealt with under the Defence of India Rules. But these murderers who are preaching political assassination are going scot-free, and it is a very sorry affair that the Home Minister should say that the people should get awakened and boycott these people and not see eye to eye with them. May I know from the Home Minister what positive, immediate action he is contemplating? Why was no action taken? This is a criminal offence under the present law of the land.

SHRI GULZARILAL NANDA: If the Hon. Member had followed my earlier reply, he would have found an answer to the question that he has raised. I said that whatever has to be done in the matter, legal action or whatever it is, that is being considered by the Maharashtra Government, and there is no question of any kind of consideration being given to any person who is culpable in this matter. I said that in addition it is the community which has to resist and to see to it that such things are not possible.

SHRI BHUPESH GUPTA: Sir, there are clearly two things with which we are concerned here: (1) disclosures about the plan to murder Mahatma Gandhi that were made at that particular meeting by Mr. Ketkar; (2) the organisation of the reception itself. With regard to the first, I should like to make the following submission. I should like to know the position of the Government in the matter. At the time of the assassination of Gandhiji there was a feeling abroad that there had been some dereliction of duty somewhere, that he had not been given the protection which should have been given to him. Now

this is a startling revelation after all that. A person publicly states that the intention to murder was communicated to him and that he had also communicated the same through an intermediary to the then Chief Minister of the Bombay State, and this report he has owned up—and Mr. Ketkar is there, others may not be there. Am I to understand that in view of the circumstances of the case and having regard to the grave misgivings that we had in 1948 when Gandhiji fell to the assassin's bullet, all that we have to do is to find out things from old records? Is it not a fit case for a very high-powered enquiry into the whole revelations that had been made in order to find out whether and in what manner the information was received, the communication about the intention was received by Mr. Ketkar, what he did later on, to whom he went, and so on? I think that if it had been so much talked about at that time, the would-be murderer coming and talking to Mr. Ketkar, it is tantamount to an admission that the matter had been discussed in a conspiratorial manner amongst others also. What was the Bombay Government doing at that time? We would like to know whether the Bombay Government and the Central Government and the Central Intelligence had any inkling or indication with regard to such things. This is very very important.

I think it is not enough for the Union Home Minister today, after the startling revelation that had been made by Mr. Ketkar, to say that the records will be looked into. The country would like to be assured of a thorough, searching enquiry into the entire episode, the entire circumstances in order to find out whether there was a deliberate dereliction of duty on the part of some people, whether some people in high authority suppressed it after having got the news through Mr. Ketkar directly or indirectly. This is what I would like to know. Therefore, I would suggest here a high-powered enquiry into the whole matter.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): You have made your point about a high-powered enquiry.

SHRI BHUPESH GUPTA: I cannot imagine this matter being treated in this manner, the manner in which the Central Government now wants to treat it. Our suspicions have been roused again, the country's suspicions have been roused again. I do not know whether Mr. Ketkar had been summoned here to make his disclosures or whether the Home Minister had sent emissaries to Mr. Ketkar to get statements from him as to what he knew at that time, what he did, and so on. Therefore, I charge the Government of India of not moving in this matter with the alertness and agility that are called for in a situation of this kind. Secondly, with regard to the reception, Mr. Naik's statement had been brought in. What Mr. Naik said is rather shocking. Mr. Naik made a statement. He said that it was not organised by any party but by only some individuals and asked, "Why blame the party for some individuals' action?" and so on.

Now, am I to understand that the Bombay Government is going to deal with this matter properly? First of all, we would like to know whether the Government of Mr. Naik knew about the proposal for holding a reception which was held on the 12th. We know from the newspapers that invitations were sent, arrangements had been made prior to that date, and certainly there is a thing called Intelligence there, the State Intelligence, the Central Intelligence,

What were they doing? Did they know that the plan was afoot in order to organise a reception to felicitate the murderers of Mahatma Gandhi on the 12th of November? Arrangements were made. And you see, the very organisation of the meeting itself would show that lots of things had been done. It was not suddenly done or too secretly done that the Government could not have known about it. Therefore, I take it that the Government was in the know of things, that some such thing was going to take place. Why did not the Government act before it was late? I would like to know whether the Central Government was sent any report, what the Central Intelligence or its subsidiary Bureau or whatever it is there was doing in Bombay, what the Intelligence of the Bombay Government was doing, what the administration in Poona, its police and C.I.D., were doing. We would like to know these.

Secondly, when the meeting was in progress, there was no interference whatsoever; it went on. Do I understand then that, when the news that the meeting was in progress, that the reception was being held, reached the Government of Bombay did not send any police or officials of the Government to watch that particular meeting and find things out? I would like to know that thing also. If they were present, what were they doing? If they were not present on behalf of the Government of Bombay or the Poona Administration or the Poona authorities, why were they absent? Therefore, there also we have very strong grounds to complain against the Bombay Government. I, therefore, demand that the Central Government should take the initiative in this matter wholly and fully and must not leave things in the hands of Mr. Naik. Mr. Naik's statement is utterly disappointing. He has shown utter incompetence in this matter. He did not act even when the meeting was in progress nor had he acted after the thing was over. Now we are told that some action will be taken after so many days. Yet, it was open to them to act immediately.

Therefore, I think that this is a very serious matter, this holding of the meeting. Imagine Mahatma Gandhi is not just one person killed in India among persons killed. It is not the case of an ordinary assassin or a political assassin. Mahatma Gandhi was killed and the killers were these people. There are no two Mahatma Gandhis, there have not been two. And we cannot think of such monstrous killers and assassins as we say in this particular case, and this is how the Government of India is reacting to this matter. And the Hon. Minister says, the nation's conscience will be roused. Yes, the nation's conscience has been roused. But we should like to know what the nation is getting from the Government of India and the administration of the State Government which are financed by the nation. I should like to know whether they, after having failed to protect Mahatma Gandhi's life, are today going to allow these kinds of things. All these things have to be explained.

SHRI ABID ALI: And also about Mao.

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): The Home Minister.

SHRI ABID ALI: Do not forget him.

SHRI GULZARILAL NANDA: If the intensity of feelings on a subject is to be judged only by the pitch of one's voice, he may score

over me but I cannot, I do not have words to say. But personally, I can myself feel it. I think as if that scene of murder is being enacted before us again when I read about that meeting and the description of what had occurred there. But what is to be done? This question arose in some form even at the time of the trial. I have before me the judgement of the High Court. When this point was raised—not in the context of any information that this gentleman got or gave to anybody—it was then urged that some persons in authority in the Bombay Government then had not acted in time. This question was very thoroughly dealt with, examined, and the Court pronounced that all that was possible in those circumstances was done. Therefore, I am now taking the one point which the Hon. Member raised, as to what the Government then did. There are specific pronouncements on that subject. The Maharashtra Government and ourselves are in close contact about this. We have instituted, started, initiated a search into the records and everything possible, anything, any clue that could be obtained from it, will certainly be obtained and similarly, the Maharashtra Government are also engaged in this. Whatever it may lead to, whatever kind of enquiry is left to be pursued, well, that is going to be taken up. And as far as any action by the Maharashtra Government is concerned, as I said, Sir, we are awaiting the reply of the Maharashtra Government.

SHRI D. THENGARI (UTTAR PRADESH): On behalf of the Jana Sangh, I strongly condemn the statement of Mr. Ketkar and the functions held at Poona on the 12th and 15th of this month. The Jana Sangh would support every move of the Government of India when it deals firmly with all the culprits who believe in violence as a method of revolution, whether those culprits proceed from Poona or Telengana.

Then there are certain questions, Sir. Is the Government aware that Mr. Ketkar

(Interruptions)

THE VICE-CHAIRMAN (SHRI M. P. BHARGAVA): Go on with your questions.

SHRI D. THENGARI: Is the Government aware that Mr. Ketkar subsequent to his statement that has been referred to resigned from the editorship of "The Tarun Bharat"?

AN HON. MEMBER: Yes.

(Interruptions)

SHRI A.D. MANI: Let him ask questions.

SHRI D. THENGARI: Again, may I know whether Mr. N. G. Abhankar whose statement has been referred to has resigned from the Rashtriya Swayam Sewak Sangh after this statement?

Again, Sir, may I know whether the Government is aware of the statement by Mr. M.G. Kanitkar, son of Mr. Balukaka Kanitkar, in the course of which he stated that the Government was forewarned by Mr. Balukaka Kanitkar and was urged to take precautions?

SHRI GULZARILAL NANDA: Sir, the Hon. Member chooses to give this information.

Comparative chart of some of the duties, powers etc. of police officers under the Cr. P. C., the Police Act and the City of Bombay Police Act.

Code of Criminal Procedure (Act V/1898)=Cr. P.C.
The Police Act (V/1861)=P.A.

The City of Bombay Police Act (IV/1902)=B.P.A.

General

Bombay

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| 1. 54 (1) First Cr. P.C.
For being concerned in a cognizable offence | 1. 33 (a) B.P.A.
Similar provision. |
| 2. 64(1) Secondly Cr. P.C.
For possession of implement of house-breaking | 2. 33(b) B.P.A.
Similar provision. |
| 3. 54(1) Thirdly Cr. P.C.
Proclaimed offender | 3. 33 (c) B.P.A.
Similar provision. |
| 4. 54(1) Fourthly Cr. P.C.
Possession of stolen property | 4. 33(d) B.P.A.
Similar provision. |
| 5. 54(1) Fifthly Cr. P.C.
Obstructing police officer on duty and escaping from lawful custody. | 5. 33(e) B.P.A.
Similar provision. |
| 6. 54(1) Sixthly Cr. P.C.
Deserter from the Army, Navy or Air Force | 6. 33(f) B.P.A.
Similar provision. |
| 7. 54(1) Seventhly Cr. P.C.
Extraditable offence committed outside India | 7. 33(g) B.P.A.
Similar provision. |
| 8. 54(1) Eighthly Cr. P.C.
Breach of rule under Sec. 563(3) Cr. P.C. | 8. 33(h) B.P.A.
Similar provision. |
| 9. 54(1) Ninthly Cr. P.C.
Any person for whose arrest a requisition has been received from another police officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made, and it appears therefrom that the person might lawfully be arrested without warrant by the officer who issued the requisition. | 9. No corresponding provision. |
| 10. 55 Cr. P.C.
Arrest of vagabonds, habitual robbers etc. | 10. 36 B.P.A.
Similar provision. |
| 11. 56 Cr. P.C.
Deputation of a subordinate to arrest without warrant. | 11. 39 B.P.A.
Similar provision. |
| 12. 57 Cr. P.C.
Refusal to give name and residence | 12. 34 B.P.A.
Similar provision. |
| 13. 58 Cr. P.C.
Pursuit of offenders into other jurisdictions. | 13. No corresponding provision. |
| 14. 60 Cr. P.C.
Person arrested to be taken before Magistrate or officer in charge of police station. | 14. 34 and 35 B.P.A.
Similar provision. |

General

Bombay

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| 15. 61 Cr. P.C.
Person arrested not to be detained more than 24 hours. | 15. 37 B.P.A.
Similar provision. |
| 16. 63 Cr. P.C.
Discharge of person apprehended | 16. 38 B.P.A.
Similar provision. |
| 17. 154 Cr. P.C.
Every information relating to the commission of a cognizable offence if given orally to an officer in charge of a police station, shall be reduced to writing by him or under his direction, and be read over to the informant; and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the person giving it. | 17. 37 B.P.A.
The officer in charge of a section on receiving any information relating to the commission within his section of any cognizable offence shall forthwith reduce into writing in manner prescribed, the statement made by the informant and the informant shall sign the statement so reduced into writing which shall be kept and recorded in manner prescribed. |
| 18. 155 Cr. P.C.
Information in cognizable cases and investigation thereinto | 18. 58 B. P. A.
Similar provision. |
| 19. 156 Cr. P. C.
Investigation into cognizable cases | 19. 59 B. P. A.
Similar provision. |
| 20. 157 Cr. P. C.
Procedure where cognizable offence suspected. | 20. 60 B. P. A.
Similar provision. |
| 21. 160 Cr. P. C.
Police officer's power to require attendance of witnesses. | 21. 61(a) B. P. A.
Similar provision. |
| 22. 161 Cr. P. C.
Examination of witnesses by the police. | 22. 61 (b) B. P. A.
Similar provision. |
| 23. No corresponding provision | 23. 62 B.P.A.
Special powers of Commissioner of Police to require attendance and obtain statements of witnesses. |
| 24. 162 Cr. P. C.
Statements to Police not to be signed or admitted in evidence. | 24. 63 B. P. A.
Similar provision. |
| 25. 163 Cr. P. C.
No inducement, threat or promise to be offered | 25. 64 B.P. A.
Similar provision. |
| 26. 94 Cr. P. C.
Summons to produce document or other thing | 26. 65 B.P. A.
Similar provision. |
| 27. 165 Cr. P. C.
Search by police officer without warrant | 27. 66 B.P. A.
Similar provision. |
| 28. 166 (1) Cr. P. C.
When officer in charge of a Police Station may require O. C. of another Police Station to cause a search to be made. | 28. 68 B. P. A.
When officer in charge of a section may require an officer in charge of another section, and the Commissioner of Police may require the officer in-charge of a P.S. in any part of the Presidency of Bombay to cause a search to be made. |

General

29. 169(3) Cr. P. C.
When officer in charge of a police station may search without warrant any place in the limits of another police station.
30. 100 Cr. P. C.
Power of Magistrate to issue search warrants for persons wrongfully confined.
31. 167 (1) Cr. P. C.
Procedure when investigation cannot be completed in 24 hours.
32. 167 (2) & (3) Cr. P. C.
Remand of accused.
33. 168 Cr. P. C.
Report of investigation by subordinate police officers.
34. 169 Cr. P. C.
Release of accused when evidence deficient.
35. 170 (1) Cr. P. C.
Case to be sent to Magistrate when evidence is sufficient.
36. 170 (2) Cr. P. C.
Bond to secure attendance of complainant and witnesses.
37. 170 (5) Cr. P. C.
Bond to be sent to Magistrate.
38. 171 Cr. P. C.
Complainant and witnesses not to be required to accompany police officer, nor subjected to unnecessary restraint or inconvenience. Requisite complainant or witnesses may be forwarded in custody.
39. 172 Cr. P. C.
Case diary.
40. 173 (1) Cr. P. C.
Investigation to be promptly completed and report to be prepared and submitted.
41. 173 (2) Cr. P. C.
Investigation report to be submitted through superior officer, who may order further investigation.
42. (a) 149 Cr. P. C.
To prevent the commission of any cognizable offence.
- (b) 23 P. A.
To prevent the commission of offences and public nuisances.
43. 150 Cr. P. C.
Action on receipt of information of design to commit cognizable offences.

Bombay

29. No corresponding provision.
30. 69 B. P. A.
Power of Commissioner of Police to search for persons wrongfully confined.
31. 70(1) B. P. A.
Similar provision.
32. 70 (2) B. P. A.
Similar provision.
33. 71 (1) B. P. A.
Similar provision.
34. 73 (1) (a) B. P. A.
Similar provision.
35. 74(a) & (b) B. P. A.
Similar provision.
36. 75(1) B. P. A.
Similar provision.
37. 75 (2) B. P. A.
Similar provision.
38. 76 B. P. A.
Similar provision.
39. No exact corresponding provision. But please see sec. 71(2) B. P. A. regarding substance of investigation reports submitted to the officer in charge by his subordinate officers.
40. 72 and 74 (c) B.P.A.
Similar provision.
41. 73(1) (b) & 73(2) B. P. A.
Forwarding investigation report to the Commissioner of Police, who may order further investigation.
42. (a) 32 (1) (b) B. P. A.
To prevent the commission of cognizable, and within his view of non-cognizable offences.
- (b) 32(1) (c) B. P. A.
To prevent the commission of public nuisances.
43. No corresponding provision.

General

44. 151 Cr. P. C.
Arrest to prevent cognizable offences.
45. 551 Cr. P. C.
Police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed as may be exercised by such officer within the limits of his station.
46. 22 P. A.
Police officer always on duty and may be employed in any part of the general Police district.
47. 23 P. A.
Promptly to obey and execute all orders and warrants lawfully issued by any competent authority.
48. No corresponding provision.
49. 23 P. A.
To detect and bring offenders to justice.
50. No corresponding provision.
51. 23 P. A.
To collect and communicate intelligence affecting the public peace.
52. 22 P. A.
To apprehend all persons whom he is legally authorised to apprehend and for whose apprehension sufficient ground exists.
53. No corresponding provision.
54. No corresponding provision.
44. 30 B. P. A.
Similar provision.
45. 55 B. P. A.
A Police officer of rank superior of that of constable may perform any duty assigned by law or by lawful order to any officer-subordinate to him, and in case of any duty imposed on such subordinate, a superior, when it shall appear to him necessary may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any person lawfully acting under his Command or authority whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.
46. 16 B. P. A.
Police officer to be deemed always on duty throughout Greater Bombay.
47. 32(1) (a) B. P. A.
Promptly to serve every summons and obey and execute every warrant or other order lawfully issued by competent authority.
48. 32(1) (a) B. P. A.
To endeavour by all lawful means to give effect to the lawful commands of his superiors.
49. 32 (1) (b) B. P. A.
To bring offenders to justice.
50. 32 (1) (b) B. P. A.
To obtain intelligence concerning commission of cognizable offence or designs to commit such offences.
51. No corresponding provision.
52. 32(1) (d) B. P. A.
Similar provision.
53. 32(1) (a) B. P. A.
To aid another police officer when called on by him or in case of need in the discharge of his duty.
54. 32(1) (f) B. P. A.
To discharge such duties as are imposed upon him by any law for the time-being in force.

Bombay